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ONTARIO  

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TIMBER COMMISSION  

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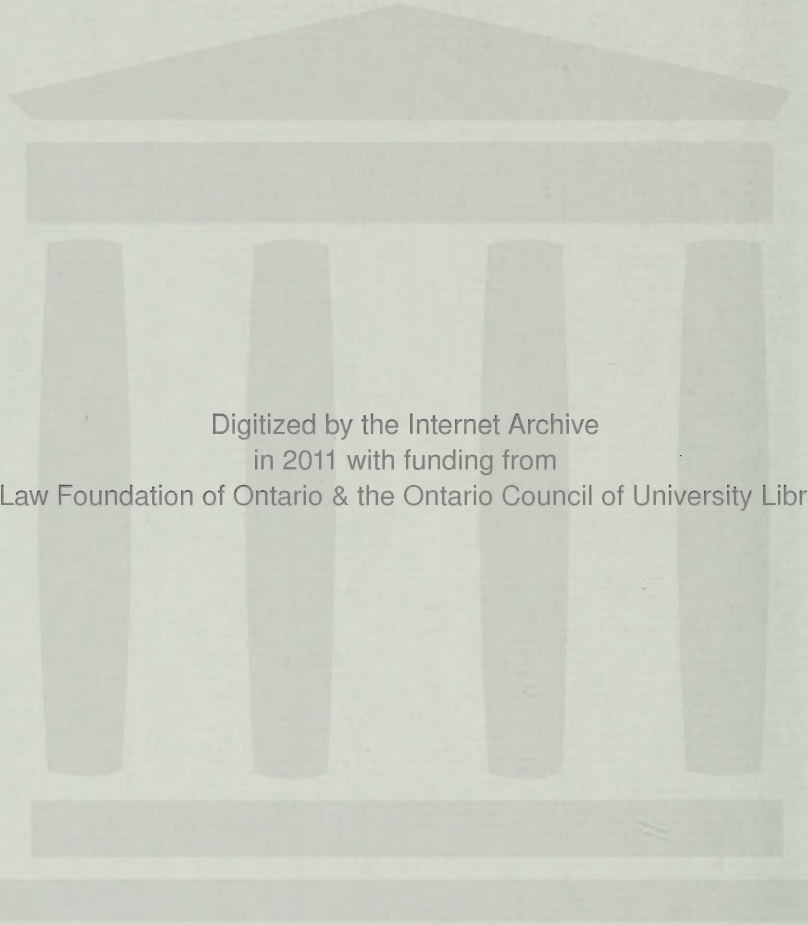
INTERIM REPORTS  
( FIRST, SECOND AND THIRD )  
AND REPORT  

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W.R. RIDDELL  

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1920



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Timber Commission

# INTERIM REPORTS

(First, Second and Third)

OF THE

## COMMISSION

To investigate and report upon the accuracy or otherwise of all returns made pursuant to the Crown Timber Act, Section 14, by any holder of a Timber License, etc., etc., etc.

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PRINTED BY ORDER OF  
THE LEGISLATIVE ASSEMBLY OF ONTARIO

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TORONTO

Printed and Published by CLARKSON W. JAMES, Printer to the King's Most Excellent Majesty

1921



# THE HISTORY OF THE

ROYAL SOCIETY OF LONDON

## IN THE

REIGN OF CHARLES II. FROM THE  
FALL OF THE COMMONWEALTH TO THE  
DEATH OF THE KING. IN TWO  
VOLUMES.

BY JOHN HANCOCK.

103419

# INTERIM REPORTS

(First, Second and Third)

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1921



Printed by  
THE RYERSON PRESS.



TO HIS HONOUR, LIONEL CLARKE, ESQUIRE,  
*Lieutenant-Governor of the Province of Ontario.*

We, the Commissioners appointed by Commission of date the ninth day of March, 1920, have the honour to make the following interim report in respect of certain operations of Walter H. Russell, of the City of Port Arthur, either individually or by and through companies of which he was the principal and almost the only stockholder, or the manager.

1. The business of Mr. Russell and his companies has been, since 1907, the exploitation of the pulpwood resources of the Province of Ontario, in the District of Thunder Bay.

2. The pulpwood which they there obtained has been for the most part exported to the United States.

3. In order to secure certain valuable areas of pulpwood, Mr. Russell conceived and carried into operation a scheme for taking advantage of what he supposed to be the legal effect of the Mining Acts of the Province.

He caused a number of persons closely connected with him, or in his employ, to take out mining licenses, nominally for themselves, but in reality for him and his companies (the fees being paid by him). As he himself says, the licenses were taken out and the locations selected and obtained solely for the purpose of stripping the properties of the pulpwood thereon; and it never was intended that even the slightest development should follow the alleged discoveries of mineral.

4. This was admitted by Mr. Russell to have been done *mala fide*.

6. Very large quantities of pulpwood were wrongfully obtained in this way. The books of the Russell Timber Company show that in 1913-1919 there were so procured at least 79,350 cords.

6. In addition to the above, Mr. Russell and his companies have trespassed for many years upon Government lands without shadow of right, and they have removed therefrom much pulpwood of great value, which they have dealt with as though it had been cut upon Mining Locations.

7. In our opinion, upon the admitted facts, proceedings should be taken to cancel the patents improperly obtained and also to recover the value of the pulpwood and for damages generally.

8. We transmit herewith the evidence respecting the above matters.  
All of which is respectfully submitted.

WILLIAM RENWICK RIDDELL.  
FRANCIS ROBERT LATCHFORD.

Toronto, July 28th, 1920.



TO HIS HONOUR, THE LIEUTENANT-GOVERNOR OF THE PROVINCE OF ONTARIO, IN COUNCIL.

We, the Commissioners appointed by the Commission of the ninth day of March, 1920, have the honour to make the following, a second Interim Report, in respect of the Shevlin-Clarke Company, Limited, of Fort Frances, Ontario:

1. The Shevlin-Clarke Company, since its organization in 1903, has been in control of many Timber Limits in the Province, as set out in the accompanying list marked "A."

2. The amount to be paid to the Province for the timber cut by the Company is calculated upon the price fixed in the contract. Two other matters only are of importance in determining the sum to which the Province is entitled, namely:

(1) The extent of the Limit, and

(2) The quantity of timber cut as determined by cullers.

3. Timber in that section of the Province is found in scattered areas rather than in continuous tracts as in certain other sections; and therefore the Limits there have, as a rule, been surveyed and laid out so as to include only territory with valuable timber thereon, and not in the approximately quadrangular form usual in certain other parts of the Province. Consequently the lumberman is not there called upon to pay ground rent, etc., for water areas or for areas without valuable timber. It is, therefore, the more important, in order that the Province may receive payment for all the timber actually cut, that the culler should make correct returns.

4. Mr. James Arthur Mathieu has, since 1903, been, and still is, in the exercise of the authority of General Manager of the Company, and he has, since 1911, been Member for Rainy River in the Legislative Assembly of the Province.

5. Mr. Mathieu before us swore that he had the patronage for this district "so far as Government matters were concerned"; that the Crown Timber Agent was appointed on his recommendation, and that while he thought there were some cullers appointed whom he did not recommend, and that he did not select all the cullers for his Company Limits, he did recommend some of them. The Honourable George Howard Ferguson, the Minister of Lands, Forests and Mines after December 22nd, 1914, swore that no Member of the House ever had the patronage in his Department, "Mr. Mathieu or anybody else," but that Mr. Mathieu, if he recommended the Crown Timber Agent, would assume that the appointment was on his recommendation. He also swore that he did not believe that Mr. Mathieu ever made a recommendation of cullers to the Department, but might have made such recommendation to the Crown Timber Agent, that the Crown Timber Agent was asked by the Department for a list of cullers, and that "the lumbermen recommend men."

No record has been kept in the Department of the work of the cullers; neither Minister nor Deputy Minister knew any considerable proportion of them, and the Government had necessarily to depend upon the Crown Timber Agent for any assurance as to the honesty of the cullers.

4. It is unnecessary to compare or criticize the evidence of these two witnesses; it is apparent that the cullers of the Company's operations in many cases might well believe that their appointment depended upon Mr. Mathieu's good-will.



5. Some of the cullers appointed to measure the timber of the said Company were for a part of the year in the employ of the Company, and one was in the receipt of money from the Company all the year round. In an investigation by Mr. Samuel Price in 1909 this culler was proved to have received \$200 from a company whose logs he had been culling, and the following year he was not employed by the Department as culler. Thereafter he was again continuously employed as such, and became culler on limits of the Shevlin-Clarke Company. For the past seven years he has been receiving \$125 a month from the said Company, in addition to his pay from the Government. According to his own statement under oath, for this \$125 a month he did nothing that he should not have done for the pay received from the Government; the amount received from the Company has been paid without any bargain, the amount being wholly for the Company to say, and the Company could pay him "what they liked, when they liked, and where they liked." Certain of the returns made by this culler show on their faces that it is impossible they can be right.

6. In order that the Government might be correctly informed of the amount of timber to be paid for, the law was very carefully considered and framed; it has been for many years set out fully in the public Statutes of the Province and in Regulations which have the same force and effect as a Statute.

7. The Statutes provide:

A. That the culler must "measure fairly and correctly, to the best of his skill, knowledge and ability, all saw-logs which he may be employed to measure, making only such deductions as are necessary to allow for rots or other defects."

B. That the culler shall "enter in a book of record for the purpose of return to the Department what he believes to be the proper contents of the logs, noting also the number of saw-logs rejected as worthless, commonly called culls."

Books of record are supplied by the Department for the purpose.

C. The Statutes further provide that, "At the end of the season every culler shall make a sworn return upon forms supplied by the Department or its agents, which shall show the number of pieces measured and accepted by him, and their respective lengths and diameters and also the number of pieces rejected as worthless."

D. Before the year 1906 there were officers of the Government whose duty it was to check the work of cullers by tests applied from time to time, but in that year (1906) the system was changed, and thereafter the Government has had no check by its own officers upon the honesty and capacity of cullers.

E. The Statutes further provide that every person who cuts saw-logs on Public Lands shall cause to be kept in each camp, etc., the records prescribed. Blank books for such records are supplied by the Government.

F. The Statutes further provide that at the end of the season each record shall "be verified by the oath of the person who made the entries therein and be delivered to an officer of the Department."

G. The foreman in charge of each lumbering operation is required to make an affidavit of the number of pieces of saw-logs, etc., produced, that he has caused a correct account to be kept, and that he has examined the books of the culler and believes them to be correct. Blank forms for both kinds of affidavits are supplied by the Government.

8. The checks above set out should have been sufficient to ensure a reasonably accurate return of the timber cut.

9. The returns made to the Government by cullers and by the Company's servants on behalf of the Company contain a great mass of perjury and forgery. In many cases affidavits were made in blank; in many cases alleged affidavits were not sworn to, and in many cases the signatures to the affidavits were deliberate forgeries. Some of these documents were prepared and completed in the Company's offices.

10. The above facts and other circumstances, including the evidence of a culler that he had been instructed to return only one-half of the timber sealed by him, satisfying us that the returns were not reliable, we caused an actual stump-and-top scale to be made by competent rangers and cullers upon certain of the Company's Limits in order to determine as accurately as possible the timber actually cut.

11. On the investigation so directed it was found from actual examination on the ground that the returns on behalf of the Company were grossly in error, being only about 25% of the true amount.

12. This result corresponds with what is indicated by the books and records of the Company, which show a very much larger output than is warranted by the returns to the Government. In one of the years the cut of which was investigated, the overrun was 133%; that is, the Company sawed two and one-third times the quantity stated in the returns.

13. A part of this overrun is legitimate on account of the Doyle scale used by the cullers, but by far the greater part is in effect a fraud upon the Government and the Province.

14. From the books and records of the Company the following scale of logs, actually sawn in their mills is made up:

Year.	Amount returned to Government and purchased logs.	Amount pro- duced by mills.	Percentage of production.
1911.....	20,512,604	31,149,835	151
1912.....	31,742,116	54,013,412	170
1913.....	53,389,527	92,355,818	172
1914.....	5,525,746	80,557,363	1,457
1915.....	29,775,291	62,877,142	211
1916.....	40,665,488	95,013,034	233
1917.....	39,679,457	91,304,572	230
1918.....	41,909,616	82,548,725	197
1919.....	30,981,869	60,126,116	194
Total.....	294,181,714	649,946,017	Average 221

(NOTE.—The very extraordinary excess in 1914 is said to be due to a large quantity of logs carried over, but this works itself out in the result and in the average.)

Consequently the Company in those years had an output from their mills of 355,761,303 feet more than appears in the return to the Government and in their statement of logs purchased from other lumbermen: in other words, the output is about two and a quarter times the return to the Government and purchased logs.



It is not possible to calculate with minute exactness the proportion of cut to return, but as less than one-fifth of the logs sawn were purchased, the above shows with substantial accuracy the percentage of production to the amount of return, any error being in favour of the Company.

15. The Statutes provide that the Minister of Lands, Forests and Mines may grant licenses to cut timber on ungranted Public Land "subject to conditions, regulations and restrictions as may from time to time be prescribed by the Lieutenant-Governor in Council."

16. On March 7th, 1914, during (Sir) William Hearst's incumbency of the office of Minister of Lands, Forests and Mines, Regulations were prescribed by the Lieutenant-Governor in Council which thereby became binding in law upon the Minister.

17. One of the said Regulations required that the "Limits shall be offered for sale by public competition" at an upset price after public notice, and that they "shall be awarded to the highest bidder."

18. Mr. George Howard Ferguson, who succeeded to the office of Minister of Lands, Forests and Mines late in the same year, 1914, acted upon the assumption that as the head of the Department he had the right to deal with such matters "regardless of that regulation."

19. On August 30, 1919, without notice to the public and without competition, he caused a license to be issued to the Shevlin-Clarke Company for Berths 45 and 49 in the Quetico Forest Reserve, about 21 square miles in extent, which he swore was "a very fine stand of pine," and which undoubtedly was very valuable timber.

20. Mr. Ferguson alleges that this was for the purpose of an experiment; but there is no provision in the Statutes or Regulations allowing an exception to the clear provisions above set out.

The issue of this license was a violation of the law of the Province.

21. From the above facts proved before us, in great measure from the books and records of the Company and from their servants, we think that the Shevlin-Clarke Company has defrauded the Province of large sums of money.

22. In our opinion all such proceedings should be taken by the Attorney-General for the punishment of those who have committed forgery and perjury, as the evidence transmitted herewith may justify.

23. We also recommend that proceedings be taken to recover from the Shevlin-Clarke Company, Limited, of Fort Frances, the sums of money unlawfully withheld from the Province, and for the cancellation of the license for Berths 45 and 49 in the Quetico Forest Reserve.

All of which is respectfully submitted.

WILLIAM RENWICK RIDDELL.  
FRANCIS ROBERT LATCHFORD.

Toronto, October 30th, 1920.

TO HIS HONOUR, THE LIEUTENANT-GOVERNOR OF THE PROVINCE OF ONTARIO,  
IN COUNCIL.

We, the Commissioners appointed by the Commission of the ninth day of March, 1920, have the honour to make the following, a third Interim Report, in respect of George Ernest Farlinger, of Sioux Lookout, Ontario:

1. George Ernest Farlinger, of Sioux Lookout, Ontario, has for some years carried on a comparatively small business as a lumberman and mill owner, and has been in control of certain Timber Limits in the Province, as set out in the accompanying list marked "A."

2. The amount to be paid to the Province for the timber cut by him was calculated in the usual way upon returns made to the Department of Lands, Forests and Mines.

3. An examination of his books and records disclosed the fact that the amount of the overrun at his mill, situated at Sioux Lookout, was much in excess of the amount justified by the use by cullers of the Doyle Rule.

4. The Doyle Rule gives a larger advantage to the lumberman and a larger legitimate overrun at the mill on small than on large logs.

5. The logs cut by Mr. Farlinger were of a small run, nearly all being under 11 inches in diameter, and in consideration of that fact we think that in his case a legitimate overrun is 50%.

6. There is no evidence of perjury or forgery in the reports made by the cullers, etc., on behalf of Mr. Farlinger, and he was himself innocent of any knowledge of wrong-doing.

7. Mr. Farlinger expressed in his evidence before us a willingness to pay for the overrun considered by us to be unjustifiable and at the rates mentioned in his contracts.

8. The amount of output at his mill was.....	5,168,434 feet.
The amount returned and paid for was .....	2,185,802 "
<hr/>	
The amount not paid for .....	2,982,632 "
Allowance for overrun under Doyle Rule, 50% .....	1,092,901 "
<hr/>	
Balance to be paid for .....	1,889,731 feet.

9. At contract prices the sum to be paid for the 1,889,731 feet is \$13,030.74.

10. Mr. Farlinger has given to us his cheque for the said amount, \$13,030.74, which we transmit with this Report.

11. We recommend that this sum be accepted in payment for the timber cut by him not reported to the Department.

12. The evidence relating to this matter is forwarded herewith.  
All of which is respectfully submitted.

WILLIAM RENWICK RIDDELL.  
FRANCIS ROBERT LATCHFORD.

Toronto, November 6th, 1920.









# REPORT

OF THE



# Timber Commission

Appointed by Commission

Dated 9th March, 1920

## PROVINCE OF ONTARIO

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THE LEGISLATIVE ASSEMBLY OF ONTARIO

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1922





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OF THE



# Timber Commission

Appointed by Commission

Dated 9th March, 1920

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TO HIS HONOUR, THE LIEUTENANT-GOVERNOR OF THE PROVINCE  
OF CANADA: IN COUNCIL.

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We, the Commissioners appointed by the Commission dated the Ninth day of March, 1920, have the honour to report as follows:—

1. We opened the said Commission and began to act under it, April 12, 1920; we held sittings on various days until January 27, 1922, at Toronto, Sudbury, Port Arthur and Fort Frances, hearing evidence and argument upon 86 days.

We were at all sittings attended by Council for the Crown, and at certain sittings by Council representing the Liberal-Conservative Opposition in the Legislature of Ontario, and by Counsel representing certain persons and companies whose transactions were under enquiry.

2. By the Commission we were required:—

“(1) To investigate and report upon the accuracy or otherwise of all returns made pursuant to The Crown Timber Act, section 14, by any holder of a timber license.

“(2) To enquire into and report upon all cutting by Timber Licensees or other persons of timber upon Crown Lands in respect of which a Timber License has not been issued.

“(3) To enquire into and report upon any damage done to the timber or freehold by any holder of a Timber License through violations of the provisions of the Crown Timber Act and any regulations passed thereunder.

“(4) To enquire and report as to the persons who are or have been responsible, directly or indirectly, for any irregular practices in regard to the foregoing matters, and as to the beneficiaries of the same, and as to the extent to which the revenues of the Crown have suffered, or damage has been sustained by the Crown thereby, and generally to enquire and report as to all matters incidental to the foregoing matters and into all other matters connected with the Administration of the Crown Timber Act or any regulations passed thereunder.”

3. We have found it impracticable to investigate or inquire into all such returns, cuttings, damage, etc., but we have made such investigations and inquiries as the time at our disposal permitted; and these, it is believed, will indicate what further investigations and inquiries, the Government or the Department may usefully make through their own officers or otherwise.

4. We have already made three interim reports:—

(a) 1920, July 28, in respect of certain operations by Walter H. Russell of Port Arthur; we recommended that proceedings should be taken against Russell upon the facts stated in our Report. On proceedings being taken, the indebtedness to the Province was settled at \$55,000, of which over \$36,000 was paid in cash, and the Province holds 2,000 cords of pulpwood as security for the balance.



(b) 1920, October 20, in respect of the Shevlin-Clarke Company, Limited, of Port Frances. We recommended that proceedings should be taken to recover from that company moneys unlawfully withheld from the Province, and for the cancellation of certain licenses in the Quetico Forest Reserve illegally granted to the Company without competition.

In conformity with this report two actions were instituted by the Province against the Company.

After a trial before the Hon. Mr. Justice Logie, it was adjudged on February 4, 1922, that the agreement and license of August 30, 1919, for Berths 45 and 49 in the Quetico Forest Reserve were contrary to the provisions of the Departmental Regulations made under the Crown Timber Act, R.S.O. Ch. 29, because of the absence of competition and the fact that the licenses were granted for a period of seven years instead of twelve months. They were held to be "invalid.....and null and void ab initio on the short ground that the acts of Ministers no less than the acts of subordinates are subject to the rule of law."

The Company was therefore held liable to pay the fair value of all the pine timber cut on these limits. That value was determined to be \$17.60 per thousand feet, log scale, Doyle rule, exclusive of Crown dues, but inclusive of the burden of brush burning instead of the price provided in the license, viz. \$7.00.

At the value of \$17.60, and on the returns made to the Department for 1919-20 and 1920-21, the Company was found indebted to the Province in \$169,991.21, and judgment was given for that amount.

Further, the Company was declared liable to pay \$17.60 per thousand feet on all timber cut but not yet returned as well as on all pine timber uncut, whenever cut.

A settlement was arranged between the Company and the Government on March 7, 1922, of these actions and of another action begun on the date of the Hon. Mr. Justice Logie's Judgment in respect of Berth No. 51 in the same Forest Reserve.

The terms of this settlement are, in brief, that security to the amount of \$500,000 shall be given as a guarantee for the due fulfilment by the company of all the conditions of the license and agreement of August 30, 1919, in respect of Berths 45 and 49. An Act confirming this settlement and sanctioning the license and agreement was to be submitted to the Legislature and enacted as a Government measure. Within one month after the Act becomes law the Company binds itself to pay to the Province \$250,000; and within two month \$169,991.21, with interest and costs and the costs of an appeal which the Company had begun.

The Company also undertakes to observe and perform all the terms of the agreement and license of August 30, 1919, as modified by an agreement made on September 29, 1921, and as further modified and validated by the Act.

Until default, no steps are to be taken in the prosecution of the actions regarding Berths 45, 49 and 51. On performance of its obligations, the Company is to be released from all claims made in the several actions, save and except timber payments and dues, ground rent and fire protection charges due or hereafter to become due in respect of the cutting seasons of 1921-22.

By the Act, the agreement and license of August 30, 1919, respecting Berths 45 and 49 and the renewals of the said license are validated and declared binding on the Province and the Company subject to the following modifications:—"2 (a) The Company shall pay "for pine saw logs, including all classes of pine, \$17.60 per 'thousand feet, Board Measure, measured on the Doyle Rule, in "addition to dues, in lieu of the price of \$7.00 per thousand feet, "Board measure, measured on the Doyle Rule, in addition to dues "specified in the said agreement and license."

There are other terms expressed in the Act which it is not necessary to refer to here.

In the result, the Province recovers \$419,991.21 with interest on \$169,991.21 from January 16, 1922, until payment, and in addition an excess of \$10.60 per thousand feet on all timber cut on Berths 45 and 49 during the season of 1921-22 and on all timber cut on these berths during the period for which the licenses are extended by the Act to April 30, 1927, or at the utmost to April 30, 1929.

The total amount so recovered and to be recovered by the Province based on the evidence before the Hon. Mr. Justice Logie as to the quantity of timber on these berths, cannot be definitely determined; it would appear, however, that it will be at least \$1,000,000; and it may reach a much larger sum.

(c) 1920, November 6, in respect of George, Ernest Farlinger.

In this case, a settlement was made for \$13,030.74; and the amount was paid to the Province.

5. We transmit with this Report, certain special reports:

- (a) The Spanish River Lumber Company and associated companies.
- (b) The Marshay Lumber Company.
- (c) The New Ontario Colonization Company.
- (d) The Spanish River Pulp and Paper Mills, Limited.

## PREScribed RETURNS OF TIMBER CUT

### A. Returns Required from Operators.

6. The Statutes of the Province have made careful provision for accurate returns to be made of all timber cut on Public Lands, the purpose being that the Province shall be paid for all such timber so cut.

The Crown Timber Act, the Revised Statutes of Ontario, (1914), c. 29, by sec. 13, provides that "Every person who cuts sawlogs on Public Lands shall cause to be kept in each shanty, camp or lumbering establishment such records and books as may be prescribed by the Minister,

which..... shall at the end of the season be verified by the oath of the person who made the entries therein and be delivered to an officer of the Department.....”

The Department furnishes to every person known to be lawfully cutting sawlogs on Public Lands, books commonly known as Shanty Books, in which are printed full directions for the keeping of the same as follows:

### “NOTICE

“The foreman, clerk, or person who keeps this book should  
“obtain the reports from the men on their return from work,  
“and enter them immediately.

“The plan of ‘banking’ which prevails at various stages of the  
“work should be minimized as much as possible, as it tends to  
“make returns imperfect.

“When the season’s work is closed, the person who has kept  
“it should attest to its correctness by affidavit, the form for which  
“will be found at the end of the book, and should then deliver it  
“to the wood-ranger in whose district the shanty is situated.”

At the end of the Book is printed the affidavit to be taken, in the following form:—

### AFFIDAVIT

To be taken by the person who kept this book.

CANADA

PROVINCE OF ONTARIO

TO WIT,

I, \_\_\_\_\_ of

in the

of \_\_\_\_\_ make oath and say,

That I was employed last winter as \_\_\_\_\_ at the

shanty of which \_\_\_\_\_ was foreman:

That as such \_\_\_\_\_ it was my duty to keep  
this book and make the entries therein:

That the men engaged in the operation of cutting, skidding, and hauling saw logs and timber were instructed to report to me on their return from work each evening the number of pieces of saw logs and timber which they had cut, skidded and hauled during the day.

That they did so report each day’s operations, which I carefully and correctly entered in this book in the several columns prepared for that purpose:



That from my own observation and from the returns received from the men, I verily believe that this book contains a true record of the cutting, skidding and hauling done at this shanty during the past winter:

The said logs were measured by

Sworn before me at

this                      day

of                                      19   .

The Book itself is in the following form:—

SEASON 19              19   .

Record of Work done at Shanty situated on .....

Logs, etc., to be hauled out on .....

for .....

Date	Saw Logs	Boom Timber			Waney and Square Timber		Remarks
		Hauled	Made	Hauled	Made	Hauled	
Cut	Skidded						
Brought Forward							
1							
2							
3							

7. It will be observed that it was contemplated that the book should be kept at the Shanty, that each evening the men should report to Foreman or Clerk the exact number of logs cut, skidded and hauled during the day, that the men should not be allowed to "bank," (that is, to keep out of the count of any day any logs to be added to the count for some subsequent day), that the foreman or clerk should carefully and correctly enter in the "book in the several columns prepared for that purpose" the number as reported each day by the men, such entries to be made immediately; and that the Foreman or Clerk should use such means as would enable him to swear that he verily believed the book contained a true record of the cutting, skidding and hauling done each day during the season.

8. The Crown Timber Act by sec. 14 provides that "Every person who obtains a license shall ..... make to the officer or agent who grants

the same or to the Minister a return of the number and kind of trees cut and of the quantity and description of saw logs or of the number and description of sticks of square timber manufactured and carried away under the license; and the return shall be verified by the oath of the holder of the license or his agent or by his foreman."

Forms of affidavit under this section are furnished by the Department to the licensees; and read as follows:—

"I

of

acting as

do solemnly swear that as such

I have a thorough personal knowledge of the lumbering operations of the said

carried on during last winter (season of ), that I have always had free and unrestricted access to their books of account and record, that I have examined the same, and also all books, tallies and memoranda kept by their foreman and cullers employed by them during the past winter, and that the annexed statement exhibits a correct and true summary of the total number of pieces of sawlogs, boom timber, and other timber got out by or for the said

or otherwise acquired by them during the past winter, by whom the same was cut or got out, and that the statement exhibits correctly the several townships, lots and concessions where the timber was cut, distinguishing what was cut under license, with the township in which the same was cut; further, that I believe and have every reason to believe that the measurements, as given in the several cullers' returns, of which the statement referred to is an aggregate of pieces, are true and correct; and that in connection with the whole operation of the said

no second or duplicate set of books of accounts, or tallies of logs or timber, or

measurement of the same has been kept by  
the said or by any one on their  
(or his ) behalf.

Sworn before me at

this day of

The form of the Return to be sworn to, is as follows:—

GENERAL RETURN OF THE OPERATIONS FOR SEASON 190 - 190

By Whom Cut	Township or Locality	Lot	Con.	Saw Logs		Boom Timber		Square Timber	
				Pieces	Feet	Pieces	Feet	Pieces	Cu. Feet

9. It is apparent that what was contemplated was that the licensee himself, his agent or foreman should personally examine into the transactions of the season, the books, tallies, etc., so that the Province should have the security of the oath either of the licensee himself or of some agent or foreman appointed for the purpose, who would know the fact.

These are the assurances required to be given to the Province on the part of the licensee.

### B. RETURNS REQUIRED FROM CULLERS

10. The timber cut is directed to be measured by licensed cullers, The Ontario Cullers' Act, R. S. O., (1914), c. 172, sec. 10. It is the duty of the culler, sec. 11, to measure all sawlogs which he is employed to measure "fairly and correctly to the best of his skill, knowledge and ability..... making only such deductions as are necessary to allow for rots or other defects, and to enter in a book of record, for the purpose of return to the Department, what he believes to be the proper contents of the logs, noting also the number of sawlogs rejected as worthless commonly called culls."

A fine is provided by sec. 16 for wilful mismeasurement, etc.; and sec. 14 provides that "at the end of the season every culler shall make a sworn return, upon forms supplied by the Department..... which shall show the number of pieces measured and accepted by him, and their respective lengths and diameters, and also the number of pieces rejected as worthless"

The cullers are furnished with a rule for measuring the logs—and on what is known as the Doyle Rule, employed as between the Province and the lumbermen in the operations we have investigated, the quantity of "merchantable" lumber in a 16 ft. log is obtained by subtracting 4 inches from the diameter and squaring the difference—in a log of different length, the quantity would be proportionate.

Take e.g., a 16 ft. log, 11 inches in diameter; 11 less 4 is 7; 7 times 7 is 49, i.e. 49 ft. Board Measure "Merchantable" lumber. In case of "rots



or other defects," the culler makes a necessary deduction to allow for them. The Ontario Cullers' Act, sec. 11; and the quantity of "merchantable" lumber in the log is thus arrived at. What is contemplated is that the culler shall see every log which is cut, shall measure every log, shall exercise an honest and competent judgment on every log which has rots or other defects, shall enter the result in a book of record, and shall make a sworn return at the end of the season.

11. Shanty Books properly kept would act as a check upon the number of logs returned by the cullers. Trifling discrepancies might be expected to occur, but large discrepancies would call for explanation. If the person keeping the Shanty Book and the culler are the same person or if they communicate their figures to each other, this check disappears.

12. Before the year 1906, there were officers of the Department whose duty it was to check the work of the cullers by tests applied from time to time; but in that year the system was changed; and on limits thereafter disposed of, the Department had no check by its own officers upon the honesty and capacity of cullers. The original system is retained on all limits disposed of before the change was made.

## RETURNS AS ACTUALLY MADE

### A. Returns Actually Made by Operators.

13. We have seen that the Statute directs that the books required by the Minister, be kept in each shanty; moreover, the Shanty Books supplied by the Minister contain instructions to enter up day by day the number of pieces cut, skidded and hauled as given in by the men on their return from work.

Notwithstanding this express direction, certain of the lumber Companies through their managers or other officers, gave instructions not to enter in the Shanty Books the number given in by the men but to make a deduction therefrom. For example, the Superintendent of The Spanish River Lumber Company, ten or more years ago, gave instructions to deduct 5 per cent. each day from the number of logs given in by the cutters. One of the foremen took off from 5 per cent. to 8 per cent., although, as he says, in most cases "men gave in what they make," or as one foreman puts it, the logmakers do not generally return more logs than the foreman finds when he goes to check them up. Another deducted 5 per cent. and sometimes as high as 8 per cent.; (this man was both culler and clerk in the shanty, and while so employed, was paid a salary of \$75 a month by the Company, and \$5 a day by the Department). A third deducted "this 5 per cent."; a fourth, exactly "5 per cent. off the cut and skid;" a fifth and a sixth, 5 per cent. off the real amount handed in "by the logmakers and skidders," according to instructions given by another officer of the Company; the latter swears that the instructions were that whatever should be the amount turned in by the men, it was to be reduced to agree with the culler's returns.

There was some evidence given before us that the deduction of about 5 per cent. was a somewhat general practice. The Manager of The

Shevlin-Clarke Company swore that the practice would not be honest "unless they could find by checking up, that the count had been wrong..... for instance, if the foreman went round and found the log-cutters were turning in more logs than they sawed.....he should know, how many you should discount, if you are going to have a discount."

14. We think the system of a fixed deduction is wholly vicious; and that the numbers returned by the men should be immediately entered in the Shanty Books. If the foreman finds on checking up that the count is wrong, he should determine the true numbers (if possible with the concurrence of the men) and also enter what he finds to be the true numbers. The Shanty Books will then show the actual returns and the numbers as determined by checking up.

15. The affidavits required to be taken by the persons keeping the Shanty Books were in many cases not made, although what purported to be such affidavits were in all cases sent in to the Department. Some signatures were obtained to blank affidavits; some signatures to affidavits sent in by one Company were deliberate forgeries, and in very many cases the alleged deponents were not sworn; not infrequently, the affidavits were prepared in the office of the Companies concerned, sometimes in collusion with a representative of the Department.

What purported to be the affidavits required by sec. 14 of The Crown Timber Act, R. S. O. (1914), c. 29, to be made by the licensee, his agent or foreman, were in all cases furnished by the licensees; but in many cases these were not sworn to, in many cases the alleged deponent had not read the books, tallies, etc., as the alleged affidavit certified. In The Spanish River Lumber Company's practice, the numbers actually handed in by the men were sent by the foreman weekly to the Company together with a statement of the numbers entered or intended to be entered in the Shanty Book. We have no evidence that this practice is common; where it does prevail, however, it is obvious that the affidavit required could not be truthfully made, as the licensee, his agent or foreman is required to swear that "no second or duplicate set of books of accounts or tallies of logs or timber or measurement of the same has been kept."

16. The glaring irregularities in documents purporting to be affidavits becoming known through the press reports of our sittings, the Parliament of Canada, July 1, 1920, passed stringent criminal legislation against the practices which had come to light, (1920) 10, 11 George V., c. 43, sec. 3 (Dom.). No method has yet been discovered of preventing the insertion of false statements in affidavits.

## **B. Returns Actually Made by Cullers.**

17. Returns regular in form were made in all cases by Cullers; it is, however, plain from the evidence before us that some of these returns were unreliable. In many cases, the cullers did not measure all the logs as required by the Ontario Cullers' Act, R.S.O., (1914), c. 172, sec. 11: in a few cases referred to in our Interim and Special Reports, they were dishonest, while their instructions gave in all cases an undue advantage to the operators.



## PRACTICE OF THE DEPARTMENT

### A. As to Cullers

18. The system followed in the Department would not be tolerated in any business institution. Cullers may be divided into two classes—those employed on Limits disposed of before the change of policy in 1906, and those employed on Limits disposed of after the change. On Limits disposed of before the change, the cullers were named and paid by the lumbermen, though appointed by the Government; on those disposed of after the change the cullers were appointed and paid by the Government. In the former class of Limits, the cullers' work was checked from time to time by an Inspector; in the latter, there is no check by the Department on the honesty and efficiency of the cullers. In the former class of Limits, the greater part of the return to the Province was a down payment, a small amount of Crown dues, \$1.50 or \$2.00 per thousand, B.M. being paid upon the timber cut; in the latter class, the return to the Province is based upon the Timber cut, comparatively large Rates being paid in addition to the Crown dues; consequently the honesty and efficiency of the cullers are of very much greater importance in the latter than in the former class; and yet they are subject to no check by Inspectors or other officers.

The evidence indicates that in some instances, even after the change referred to, the wishes of the lumbermen were considered in the selection of cullers: On this point, we would refer to our Second Interim Report, in respect of The Shevlin-Clarke Company, mentioned above.

19. It is obvious that (particularly in the latter class of Limits) the cullers should be perfectly independent of the lumbermen; but we have found several instances in which they have been in the employ of the lumbermen while under pay by the Government as cullers of the logs of their private employer; and many instances in which during the part of the year in which they were not under pay by the Government, they were employed by the lumbermen whose logs they had culled or were to cull on behalf of the Province.

### B. Examination of Returns.

20. The practice in recent years has been that the Local Crown Timber Agent sends in to the Department;

(1) The affidavit under sec. 14 of R.S.O., c. 29, commonly called "Final Return."

(2) Culler's return with sheets and affidavit.

(3) The Shanty Book with the affidavit required by sec. 13 of the same Act on the inside of the book cover, and

(4) His own certificate attached to the Shanty Book, that he considers "the returns as shown by the Shanty Book, Foreman's and Culler's affidavits and the Final Return satisfactory."

An officer in the Department examines the affidavits to see if they appear to have been regularly sworn. Of the three returns, viz., (1) the "Final Return," (2) the Culler's return, and (3) the Shanty Book, only the first and second receive any attention. The Shanty Book is wholly disre-



garded, no matter what the discrepancy may be between it and either of the others, notwithstanding the fact that the Shanty Book and the "Final Return" were intended to be a check on the culler's return.

The culler's return and the "Final Return" usually agree; but if by any chance they disagree, the bill is rendered to the lumberman for the larger amount without further inquiry. An officer of the Department swore that he considered the Shanty Book so much waste paper and that no attention is paid to what is in it. It had been until 1906 the custom to compare the culler's return with the Shanty Book, and if the Shanty Book showed a greater amount than the culler's return, that greater amount was charged for.

Before 1910, there was no certificate required from the Crown Timber Agent.

The late Deputy Minister, Mr. Grigg, swore that the practice of the Department just described was a surprise to him, that the principle is so simple that he could not conceive the officer not doing it, i.e., not comparing the Shanty Book with the culler's return.

21. We find also that the fact that returns in recent years of a large operator in the Sudbury District showed an average of but 25 ft. to the log, attracted no attention on the part of the Crown Timber Agent for the District or of the Department, although it was the opinion of the assistant to that Agent, a man of large experience in the District, that the logs should average 20 or 30 logs to the thousand feet—instead of 40 as shown by the returns.

22. To summarize, it appears that in many cases there was no efficient check upon the work in the woods; that the verifications required by law were not made; that in some local Crown Timber Offices little attention was paid to the accuracy of the Statutory Returns; and that in the Department itself there was no proper examination and scrutiny of them.

### TRESPASSES.

23. Our First Interim Report, in respect of Walter H. Russell, mentions trespasses on Crown Lands; certain trespasses by the Marshay Company of which evidence was given before us were, we are informed, settled for by that Company. Other trespasses of a more or less unimportant character, were disclosed in evidence, but we have not thought it necessary to report specially thereon—the Department has sufficient means of determining such trespasses by its own officers.

Of these trespasses, some were certainly wilful and repeated; in some cases, the evidence suggested but did not conclusively establish that the trespass was wilful. There are very few cases in which trespass cannot be avoided with ordinary care; no reason can be given why lumbermen should not make themselves familiar with the boundaries of their limits, or why a penalty should not be incurred in every case of trespass.

24. This is provided for by The Crown Timber Act, R.S.O. (1914), c. 29, sec. 19, which makes no distinction between wilful and other trespasses. April 24, 1906, an Order in Council was passed limiting trespass

penalties to wilful trespass and empowering the Minister to remit them in case of inadvertent trespass. This Order in Council was not warranted by the Statute in force at the time, R.S.O., (1897), c. 32, sec. 19; it should be rescinded and the provisions of the existing Statute rigidly enforced.

The same considerations do not apply to the case of settlers unwittingly trespassing—a certain amount of elasticity might well be allowed in such cases by the Regulations.

25. While beginning operations upon any Limit without notifying the Department cannot, in law, be called a trespass, it should be forbidden by Regulation. Every operator should be required under suitable penalty to report to the Local Crown Timber Agent, his intention to cut upon any Limit before beginning to cut.

### **DAMAGE TO TIMBER OR FREEHOLD.**

26. We did not find it necessary to enquire into alleged damage done to the timber or freehold by holders of Timber Licenses through violation of the provisions of The Crown Timber Act or Regulations passed thereunder.

### **PERSONS IMPLICATED IN IRREGULAR PRACTICES.**

27. As to persons who have been implicated in irregular practices in regard to the matters under enquiry, we find the following:—

1. Persons making untrue affidavits under sec. 14 of The Crown Timber Act; (127) William Joseph Bell; (222) John Alexander Ferguson.

It would appear more than doubtful that these documents returned by the Company to the Department as affidavits were in some cases actually sworn.

It is indicated in the evidence that the practice has been common for licensees, their foreman or agent, to swear to affidavits which contained statements that were not in fact true.

2. Alleged deponents who did not actually swear:—(673-4; 980) Newland Spreadborough; (699) Robert O'Brien; (734) Frank Recollect; (778) Stephen Kiniwigigig; (800-1) Ignatius Oswanniniki; (819) William Tyson; (849) Joseph P. Manitowabi; (873-4) Ignac Demoulins; (888) Joseph Trudeau; (1075) Christopher Poupore; (1107) Rex. T. Berry; (1245) Thomas Fraser; (980, 1411) John Parker Reid; (1469) Frederick John Schroder; (1484; 1494) Alexander Bailey; (2837; 2841) Arthur Cyril Tichbourne; (2890-1) John Jamieson; (2936, 2962) Magnus Luke Betts; (2942) Charles Roscoe Richardson; (3020) William Kirk; (3036-7-8) John Edwards; (3057) Newton Totten; (3062) Frank John Elliott; (3071) Gilford Ambrose Woods; (3097) William Henry Clair; (3103) Thomas Finlay Elliott; (3116) Norman Lois Guimont; (3127-8) Jean Albert Bissonette; (3134) Edward Joseph Turgeon; (3140) Michael Joseph Healey; (3190-1) Halvor I. Andreson; (3195) Samuel File; (3196) John Bullied; (3198) Carman Knowlton Shine; (3203) Parker Guy Butler; (9832) James Miller; (9880, 9882) Simon Hayes; (9895) Robert Michael Young; (9917) Edwin Ciguere; (10,060) Joseph Leterski; (1073) Elzear Belanger; (1082) Alfred Trottier; (1088) Joseph Lalonde.

Many of the above were innocent of wrong doing. There were others less definitely spoken of.

3. The names of the following appear to alleged affidavits which were not signed by them:—

(735) Frank Recollet; (849) Joseph Manitowabi; (3195) Samuel File; (3196) John Bullied; (3171) Gilford Ambrose Woods; (3125) Jean Albert Bissonette; (3063) Frank Joseph Elliott.

We have evidence that the practice was rather common in the case of one Company already reported on.

4. Commissioners omitting to swear alleged deponents:—(904, 1490) Stonewall Hawkins; (973-4-6-7-8) John G. McCaw; (1401) Theodore Ellis; (3330-1-4, 3097) John Patrick Legris; (3039-40, 3195, 3359-60-5) Walter Malcolm Jones; (9832, 9880-2, 9990-2) Phineas Coyne; (734-5, 819) W. Arnill; (1105, 1076) William Simpson; (1469) Allan; (2837) George Watts (deceased).

Others were spoken of less definitely.

### GENERAL CONSIDERATIONS.

28. The Province must realize that loose methods in respect of our timber resources should not be permitted to continue. The revenue to be derived from our forest must, under the present system, be expected to diminish; and in any case, the expense must be expected to increase. Every practicable means should be adopted to make the revenue greater and more certain, unless thereby the expenditure be unduly increased.

### THE DOYLE RULE.

29. In the early days of our lumbering industry, the pine logs made were (generally speaking) larger and finer. Some years ago, what is called the Doyle Rule was adopted by the Government for the measurement of sawlogs in general. So long as the logs were of considerable size, the measurement by the Doyle Rule was satisfactory, and the quantity of "merchantable" lumber in each log was arrived at with a reasonable approach to accuracy.

When timber is sold, the Province is paid only for the "merchantable" lumber estimated as being in the sawlogs—the lumberman receiving without payment all lumber of a lower grade than "merchantable."

It is important to note that what is called "merchantable" lumber is lumber of a grade above No. 1 Culls such as alone could formerly be exported and sold. Lumber inferior to "merchantable", can now be sold at high prices, but the old terminology has been retained; and while saleable, such lumber is not called "merchantable."

In small logs, the quantity of "merchantable" is in excess of the amount found by the Doyle Rule; and the careful and competent manufacturer of lumber from such small logs has the right to expect an "over-run" in his output, that is to have more "merchantable" lumber than the Doyle Rule calls for.



30. Considerable evidence was adduced before us of the percentage of overrun to be expected in logs measured by the Doyle Rule; and we think it well to give the following extracts:—

Mr. Jacob Charles Gill, Mechanical Superintendent of The Victoria Harbour Lumber Company with an experience of twenty-seven years, and cutting 18,000,000 to 20,000,000 feet per annum, says that in logs of 46 to 50 feet, there is no overrun of "merchantable"; with an overrun of saleable culls of 30 per cent. in logs of 30 feet the total of overrun including saleable culls is 40 per cent. to 45 per cent. For the ten years 1910-1919, the books showed an overrun of 49.1 per cent. of "everything that went through the mill, including culls of all kinds"—the Company claims that the culls are about 33 1-3 per cent. of the total production, practically leaving no overrun of "merchantable". Thus:—

Total output as compared with return..... 149.1 per cent.

Of which 1-3 is culls..... 49.7 per cent.

Leaving no overrun of "merchantable".

(The computations made at the hearing are erroneous.)

Mr. William Joseph Sheppard, President and General Manager of The Georgian Bay Lumber Company, with an experience of fifty years "with as good a mill as there is in the Province of Ontario" as he thinks, gives the experience of his Company from 1911 to 1920: the average overrun is 38 per cent.—including before 1917 "Merchantable" and mill culls and dead culls. He has always considered that in bidding on Doyle Rule measurement, with honest and fair treatment, he should have an overrun of 33 1-3 per cent.—estimating the dead culls at 2 per cent. and the mill culls at 20 per cent.

Mr. Douglas Leland White, formerly of Messrs. Playfair & White of Midland, Ont., formerly owners of a large saw-mill cutting from 1897 till within two or three years, usually from 18,000,000 to 20,000,000 feet per annum, "tried to get all" he "could", and was satisfied with an overrun of 25 per cent. to 30 per cent., including mill culls.

On one occasion he made an actual experiment on one lot of logs running 115 to 120 feet per log—in that instance, taking out the mill culls there was an underrun; but with the mill culls the overrun was about 20 per cent.

Mr. William Beck of The C. Beck Manufacturing Company Limited, with an experience of about 35 years, cutting 12,000,000 to 14,000,000 feet per annum, had for the 10 years for which the calculation was made, an overrun of 60 per cent. of all grades.

Mr. Manley Chew with fifteen years experience operating a mill at Midland, has in the last seven years had an average of about 60 per cent. "overrun, culls and everything", "everything that will hang together."

Mr. William Elijah Bigwood of Messrs. Graves, Bigwood & Co., with a mill at Byng Inlet, on an output of nearly 250,000,000 feet, finds his total overrun 52 per cent. of which 10 per cent. or 12 per cent. is dead culls and 15 per cent. or 20 per cent. mill culls, leaving the "merchantable" overrun 20 per cent. to 27 per cent.

The above seem to be honest computations; in some cases in which we are obliged to report adversely, the percentage is enormously higher, e.g. The Shevlin-Clarke Company claimed as proper their average overrun for the ten years 1911-1919 inclusive of 221 per cent.

The Spanish River Lumber Company claimed as proper for the ten years, 1910-1919 inclusive, their overrun of 137 per cent. and of "merchantable" alone 57 per cent.

31. There are many other Rules in common use in various parts of the continent, such as the Quebec Rule, the Scribner Rule, the Maine Rule, etc.

The Spanish River Lumber Company, in order to illustrate the difference in the quantity of "merchantable" lumber as indicated by the several Rules, gave us what was claimed as an actual example.

In a certain quantity of logs, Mr. Benjamin Walworth Arnold, the President of the Company, said that the amounts shown by four of the Rules were as follows:—

Doyle Rule .....	18,876,000 feet
Quebec Rule .....	30,004.835 "
Scribner Rule .....	29,634,722 "
Maine Rule .....	37,157,943 "

The actual cut was "Merchantable" 25,724,685 feet, and in addition saleable "Mill Culls", 11,184,757 feet.

Thus, he claimed, the quantity of "merchantable" as shown by the Quebec, Scribner and Maine Rules was well over the actual cut of "merchantable", while by the Doyle Rule the overrun of "merchantable" actually produced was in excess of 36 per cent. We have no account of the size of the logs so measured and sawn.

(Certain diagrams and calculations were put in by this Company as showing the quantity of lumber which could be cut from logs of a given diameter and length. These are based upon the hypothesis that the logs are perfect cylinders, and perfectly straight, which is of very rare occurrence in actual experience. They are therefore practically worthless as assisting in the enquiry).

Were the timber sold to be measured by any of the other Rules, the price per thousand obtained would probably be smaller; but the number of feet produced at the mill would be more nearly equal to the number of feet estimated and paid for to the Province. }

Professor Chapman of Yale University in his work on Forest Mensuration, p. 68, says of the Doyle Rule:—

"The wide use of this Rule has caused losses of millions of dollars to owners selling logs and standing timber, by improper and defective measurement of contents."

In this connection we would emphasize the fact already indicated that a large percentage of the product of logs is not of so superior a quality as to fall within the description "merchantable"; but, nevertheless, this inferior lumber is now sold at a higher price than "merchantable" formerly brought.



32. We see no reason why the Province should not secure payment for all the saleable lumber which, with proper appliances, skill and care, can be made from the logs; and it seems to us more equitable for both parties that a Rule should be adopted which will give a close approximation to the sawing content of every log.

Those who have bought timber to be measured and paid for by the Doyle Rule, of course, have a right to the advantage which that Rule gives them.

The Department should carefully consider whether the time has not come to adopt for future sales a method of measurement which will determine the amount of saleable lumber with a close approximation to accuracy. The importance of accurate measurement is much greater under the present system of paying comparatively large rates on the estimated quantity of the lumber in the logs cut than under the former system, in which most of the payment was in a cash "bonus".

### CULLERS.

33. The very great importance of competency and honesty in the Culler is obvious, and has always been recognized in the Statutes. The Ontario Cullers' Act, R.S.O. (1914), c. 172, continues the provisions of earlier legislation.

It provides by sec. 10 (1) that "no person other than a licensed culler shall make measurements of sawlogs cut upon Public Lands for the purposes of a return to the Department" (with certain exceptions not of importance here); by secs. 7, 8, 9, that to obtain a license, the culler must pass an examination and take an oath to measure "without fear, favour or affection, and to the best of his judgment and skill; "by sec. 3, that Boards of Examiners consisting of three persons be appointed by the Lieutenant Governor in Council "to examine, test and report upon the ability and knowledge of all applicants desiring to be licensed to cull and measure sawlogs cut on Public Lands."

The examination to which intending cullers are subjected is a practical test of their judgment, so that any one who obtains a license should be capable of closely estimating the quantity of "merchantable" lumber in logs which he is called upon to scale.

So much depending upon the honesty of the culler (which cannot be tested), temptation to favour the lumberman should as far as possible be removed. The culler should not be nominated, employed or paid by the lumberman; he should not be removed or removable at the instance of the lumberman; he should be paid a sufficient salary by the Province and have continuous employment in the service of the Province; e.g. all cullers might find employment during the summer, as fire rangers.

A culler should not be permitted to receive presents or favours from the lumberman, or to purchase goods from him at less than current prices—board and lodging, if supplied by the lumberman, and any payment by the lumberman, should be as of right and provided for in the conditions of sale.

No culler or inspector should have any interest in any timber, tie or pulpwood contract, license, or permit.



This recommendation would seem superfluous but for the fact that we found at least one instance of such an interest being held by a culler.

A proper clause in the affidavit required from the cullers would furnish some safeguard against this objectionable practice.

Cullers should not be continued in the camps of a particular operator for a long series of years; and there should be some system of checking their work by competent Inspectors on all Limits, such as was contemplated on Limits disposed of before 1906.

### INSTRUCTIONS TO CULLERS.

34. Cullers should be familiar with the boundaries of the area upon which they scale—if necessary for such purpose they should be furnished with a map or diagram—and they should promptly report to the Crown Timber Agent anything they regard as a trespass.

Cullers should be familiar with the terms of purchase of the timber which they are to scale; and they should be charged with the duty of seeing that the conditions are carried out. This is particularly advisable when down or burnt timber is to be cut within a limited time; the Province has already lost much revenue from such terms not being complied with.

Some of the cullers stated that their instructions were to give the lumberman the benefit of any doubt. In a certain particular, the lumberman is always allowed an advantage in the ordinary method of scaling; unless the diameter of the log is an exact number of inches, it is taken at the next lower whole number. For example while a log of 11 inches is taken at 11 inches, those of  $10\frac{7}{8}$ ,  $10\frac{3}{4}$ ,  $10\frac{1}{2}$ , etc., down to 10 inches are all taken at 10 inches.

A fair method would be to take the nearer whole number. (Of course in contracts already made on the basis of the present system of scaling, a change should not be made, the lumberman being entitled to any advantage he might fairly have in view at the time of the contract.)

We have found at least one instance (and others were indicated) of the same lumberman who was operating adjacent areas, the contracts for which provided for the payment of different rates, skidding the logs from the dearer area upon the cheaper. This practice lends itself to serious abuse; the culler is not unlikely to fail to distinguish the dearer from the cheaper logs, and the Province suffers accordingly—more than one culler swore that the lumberman had always the benefit of any doubt. Logs to be paid for on a "Stumpage Basis" at different rates should not be skidded together.

We have found instances in which cullers do not measure more than 25 per cent. of the logs; and while sometimes a greater percentage than 25 per cent. is measured the practice seems to be common for the culler not to measure all logs as required by The Ontario Cullers' Act, sec. 11. The excuses given for this omission are various—want of time, the skidding of logs in such a way that all of them could not be reached, the piling on the ice of logs which sink and can not be seen, etc., etc.

Cullers should be instructed to measure every log; and for that purpose to require that the logs should be placed in such a position that they can be seen and measured; cullers should refuse to report on logs not so

placed; on refusal or omission to place logs properly, the Crown Timber Agent should be informed and a report of the facts made to the Department. The Department has ample means at its disposal to compel compliance with the Statute and Regulations.

All culling should be done on skidways; the skidways should be numbered and the culler should have a book in which are to be entered the work of each day and the count and content of each skidway; thereby an Inspector will be enabled to check the work of the culler, which would otherwise be very difficult if not impossible.

### INSPECTION OF WORK OF CULLERS.

35. We found that the practice of cullers is irregular and far from uniform—leaving aside cases of plain dishonesty, the methods of many are loose, leading to much loss of revenue to the Province.

There was no supervision of the work of cullers in many instances in which even high rates were payable to the Province—had proper and efficient supervision been exercised, many cases of irregularity and some of dishonesty must have been revealed with beneficial result upon the revenues of the Province.

We think that frequent inspection of the work of cullers should be made by competent officers, who should have the power to suspend any culler who was in their judgment, dishonest or incompetent. It might be well that the Inspectors should report directly to the Department and not to the Crown Timber Agents as the cullers are required to do.

It is not without significance that one of the Crown Timber Agents thought it proper to warn all his cullers who went out for the winter of 1919-20 that "they ought to be doubly careful at the present moment because there has been some charges made here and in all possibility they would be check scaled and to be doubly careful."

### INCREASE IN RETURN FOR 1919-20.

In the case of one Lumbering Company operating on a very large scale, and already reported on, the logs for 1919-20 were reported as averaging 57 feet as against 47 feet for 1918-19, an increase of over 20%.

### CULLS.

36. We have found that many logs which are "rejected by the cullers as worthless, commonly called culls," R.S.O. (1914) c. 172, sec. 11, have been taken by lumbermen and converted into saleable lumber; nothing is paid to the Province for such logs.

The Statute, sec. 12, forbids marking as culls any logs intended to be utilized in this way; but it is to the advantage of the Province as well as of the operator to have every log driven to the mill which will repay the expense. Logs left behind become the breeding places of the wood-beetles—"worms"—which are multiplied through such nurseries. But while the removal of all logs should be encouraged, a proper system of measurement and culling should be adopted in respect of the inferior logs thus utilized; every log taken by the lumberman, which will repay the cost of logging and manufacture, should be paid for.



### SPECIAL RETURNS AS TO JOBBERS.

37. We have found instances in which the transactions between lumbermen and their jobbers were not properly evidenced, leading to a strong suspicion that the Province has suffered loss.

Where lumbermen employ jobbers, the employer should make a return under oath of all timber, etc., got out by each jobber and of all timber, etc., credited or paid for to each jobber.

### MEASUREMENT OF PULP WOOD BY CORDS.

38. Under a contract made November 21, 1894, the concessionaires, now The Spanish River Pulp and Paper Mills, were to "pay for the first eight years of cutting 20 cents per cord for spruce and hardwood, and 10 cents per cord for other woods....."; thereafter the price was to be fixed by the Lieutenant-Governor in Council. Shortly after the contract was made, the concessionaires entered into correspondence with the Department, as they intended to take out the material in logs and desired an arrangement to be made for reduction to cords of the wood measured in the log. In 1895, it was agreed that 115 cubic feet in the log should be considered as equivalent to a cord (128 cubic feet, 8 x 4 x 4, piled in the usual way.) This divisor is fair for logs of a considerable size, say 12 inches at the butt; but in small logs it is too high.

An agreement of October 6, 1898, contained a provision that the concessionaires, now the same Company, were to pay "20 cents per cord of 128 cubic feet for spruce and hardwood and 10 cents per cord of 128 cubic feet for the other woods.....or such other prices as may from time to time be fixed by the Lieutenant-Governor in Council for such wood....." The agreement of September 21, 1899, held by the same Company, has the same provision for a payment (omitting hardwood). The late Deputy Minister, Mr. Grigg, suggests a divisor of 100; and that seems a fair figure in many cases; there is, however, no difficulty in obtaining a divisor almost exact for any particular run of logs.

There has already been a serious loss to the Province by the adoption of the arbitrary divisor of 115 cubic feet, and we recommend a change to a divisor approaching accuracy in each case.

### MEASUREMENT OF TIMBER AS TIES.

39. In some instances, the contract provided that "logs of a less diameter than 11 inches at the top" should, although sawn into lumber, be paid for at the rate prescribed in the contract for ties. Thus in a contract which was brought to our attention in so far as logs of 10 inches and over were concerned, there resulted a loss to the Province of about 6 cents per log.

It should be carefully considered by the Department and the Government whether all logs sawn into lumber should not be paid for at the lumber rate.

### MINIMUM DIAMETER OF TREES.

40. In certain of the contracts, a minimum diameter has been set for the trees which are to be cut down. In many instances, such provisions



have not been complied with, the operator being allowed to cut trees as small as he wished. Various reasons—none satisfactory—were advanced for this disregard of contract.

It may not be possible to lay down by formal Regulations, the minimum diameter of trees to be cut in the whole Province; but the matter should be carefully and intelligently considered by competent officers, and a minimum fixed for each concession. When fixed, the minimum should not be departed from except under extraordinary circumstances, and then only under the authority of an Order-in-Council.

### HOW PAYMENT TO PROVINCE DETERMINED.

41. We have seen that the system before 1906 was for the purchaser to pay the most considerable part of his purchase money at the time of the purchase and a small amount per thousand on the timber cut; and that since 1906 the system is for the purchaser to pay his purchase money on the timber as and when cut.

In addition to these methods, it has been suggested that the Province should be paid upon the actual amount of lumber produced from the logs at the mill. This is, at first sight, a captivating proposition; but many practical objections present themselves against such a scheme; and we do not recommend it. We think, however, that a sworn annual report should be required from every saw-mill cutting logs obtained from public lands; the report should state the number of logs sawn as well as the quantity and quality of lumber produced; and it should distinguish between the logs cut by the Company and those acquired by purchase.

42. Of the two methods which have been employed, that should be adopted which promises the best results.

The following considerations may be of use in assisting the Legislature or the Lieutenant-Governor in Council in determining the practice to be followed in the future disposition of timber limits.

1. The Province is always borrowing; and it is a consideration to receive a large sum in cash, as is the case in the former system.

2. In the former system, the lumberman had a great personal pecuniary interest in preserving the limit from fire, as the loss from fire, however originating, was mainly his; in the latter the loss falls mainly on the Province.

3. In the former system there was little temptation to dishonesty in measuring the logs, as the amount to be paid, based upon the measurement, was comparatively small; in the latter, there is greater temptation, as the amount to be paid largely depends upon the quantity as determined by measurement.

4. While in law, the licenses granted under the former system were for only one year, in practice, they were renewed from year to year as long as the licensee wished. This being understood as the policy to be pursued in the absence of special reasons, the lumberman would have an inducement to preserve the smaller and growing timber for future cutting.

Except in areas in which there is land suitable for settlement, there seems to be no good reason why licenses should not be renewed in per-

petuity; of course, settlement is the great desideratum, and all licensees should understand that land suitable for settlement cannot be kept under license.

5. In the former system the practice was followed of the lumberman appointing or naming and paying the culler, which should not be permitted.

6. The former system had the defect that the reserve bid might be set too low and the sale made at too small a figure, there being no way of correcting the error if one was made. If the sale, however, were open, on public competition, after proper advertisement, that risk would be largely diminished; and in any event, a proper cruise and estimate should determine the value with reasonable accuracy. Some risks must be taken in all great undertakings; no scheme can be perfect; and what is to be considered, is the balance of convenience.

### FOREST SURVEY

43. It does not appear that there is an adequate knowledge of the extent and character of the timber resources of the Province and Crown lands generally.

An accurate and complete survey would necessarily involve considerable cost; but it is urgently required.

We quote from the Review of Work of the Commission of Conservation by Sir Clifford Sifton, (1917) p. 9.

"Good work has been done by the Province of New Brunswick in the forest survey and land classification of Crown lands.....the purpose is to determine in advance what land is suitable only for maintaining forest growth and what is suitable for agriculture." We would add "or mining."

Sir Clifford continues:—

"It is in Quebec and Ontario that the most urgent necessity exists for the work being undertaken systematically."

We also quote from the Report on Forest Conditions in Nova Scotia, prepared in 1912 for the Commission of Conservation by the late Dr. B. E. Fernow:—

"Ignorance of the assets of the Province as a whole as well as of the conditions of the remaining Crown Lands becomes in time inexcusable. The Government is certainly justified in ascertaining these conditions, for it alone can do so satisfactorily, and it alone is or ought to be concerned in every acre of the Province, be it owned by farmer or lumberman or by the Province itself. This reconnaissance.....is to dispel ignorance as to this important asset of the Province; to substitute definite knowledge in place of general notions as to the conditions of timber supply and to accentuate the necessity for more conservative use and perhaps for recuperative measures."

Mr. Elwood Wilson, the Chief Forester of the Laurentide Company at a meeting of the Commission of Conservation at Ottawa in September, 1917, said:—



"The greatest need of to-day in forest conservation in Canada is that the Provincial Governments and the Dominion Government should realize the absolute necessity of having reliable information about their lands, the timber on their lands, and the factors involved in the growth and reproduction of trees."

### DESTRUCTION OF NATURAL BEAUTY

44. While it is inevitable that lumbering operations will in some measure diminish the natural beauty of the Province, immediate utilization of the timber areas should not be permitted to destroy this beauty altogether or more than is absolutely necessary.

Beauty is more and more an asset as civilization advances and settlement is increased; and a thing of beauty should be not only a joy but also a source of revenue forever.

It is unnecessary to do more than refer to the Lake Districts in England, Scotland and Ireland, to show that a beautiful district may be an asset as valuable as a grain producing district of the same size, or more so.

The Province has in such a lake as Temagami an asset of incalculable value, which cannot be destroyed or even injured by its utilization in its natural condition.

This Lake was known as the Paradise of the Algonquins and has no rival in beauty on this continent—having a particular appeal to visitors from the United States, not only from its beauty but also from the fish abounding in it and adjoining waters and the large game in the immediate neighborhood.

Well situated for easy access, it is sufficiently far from permanent settlement to be continued perpetually as a delightful summer resort—it is on the height of land between the Ottawa and the Great Lakes, having outlets to both; and is in the very midst of the splendid Temagami Forest Reserve and surrounded by primeval pines.

The exploitation of the waters of this Lake by the Spanish River Pulp & Paper Mills Limited has already seriously diminished the beauty and therefore the value of the Lake, and the adjoining Cross Lake. The dam at the foot of Cross Lake it may not be necessary to remove; but it should be carefully supervised and the waters should not be allowed to rise so high as to drown the natural vegetation at any point—or to fall so low as to interfere prejudicially with the spawning beds or diminish the natural beauty of the shore lines. It is not enough that the natural maximum and minimum be not exceeded, the natural times and seasons of such maximum and minimum should be observed—infinite harm may be done even although the natural maximum and minimum be never exceeded.

In general, no dam should be permitted to be erected which would seriously injure any of our many beautiful lakes and rivers. It must unfortunately be recognized that already many beauty spots have been made into hideous eyesores by negligent operations without regard to their natural state.



Of course, there will often be a conflict between the commercialization of waters and their conservation for aesthetic reasons, and sometimes the balance of convenience and advantage will be with the former—but nothing should be tolerated in that direction beyond what is reasonably necessary. In most instances it will be found, as it has in other lands been found, that the two are not inconsistent. Conditions carefully thought out and rigidly observed with constant and sympathetic supervision will generally prevent undue interference with natural scenery.

The legal right of operators to interfere with the natural level of the waters of Temagami and other scenic lakes should be examined into with care—if the present legislation be not sufficient to prevent such practices (and apparently it is) new legislation should be sought.

### FIRE PROTECTION

45. The Report of the Commission of Conservation for 1919, p. 177, quotes the late Senator Edwards, a man of a very long and varied experience in lumbering in Ontario and Quebec, as saying that over twenty times as many trees have been burnt as were cut by lumbermen—and the same Report quotes the British Columbia Survey as estimating twenty-one times as much burnt in British Columbia as cut, and it is said that the Eastern Provinces have fared as ill. The assertion is made that one-half of our commercial timber lands has been burnt over (p. 178).

Mr. J. A. Mathieu, M.P.P., in his evidence before us, estimated the loss by fire in the Rainy River District at from 400,000,000 to "600,000,000 feet and at \$30 a thousand at the present time" would make it \$1,800,000,000—one billion, eight hundred million dollars.

The reports of the Department are sufficiently alarming—e.g. for 1917, a loss by fire is reported of 12,278,000 ft. B.M.; cords (mostly pulpwood) 91,246 and 781,685 ties.

The Report of the Commission of Conservation of the Trent Watershed (1913) gives an appalling view of the results of fire on the reproductive qualities of the soil. The burnt out areas present a melancholy and startling appearance—and little hope exists for a substantial improvement in productiveness within a reasonable time: The Report (p. 63) asserts that on the Trent Watershed are 389,000 acres of former pineries burnt over two or three times upon which indeed a few seed trees still remain but not enough to establish a crop of commercial value; and 156,000 acres have been burnt over four to eight times, and on that land there is no hope of any reproduction of the pine. There are 75,000 acres burnt over only once on which there is an average of 30 young pines per acre having a potential stumpage of 1,575,000 feet. Consequently this whole area of over 600,000 acres is not likely to produce for commercial use more than about a million and a half feet; and this very area was according to the Report (p 11) the main part of what "was to the extent of fully two-thirds a magnificent pinery or in fact hardwood with white pine admixture; the other third was a pure hardwood forest of which maple and beech formed 75 to 85 per cent. and hemlock 2.5 per cent."

The destruction of this splendid property was not wholly due to fire; but it could have been prevented as it was foreseen a hundred years ago and the Governor of the day, Sir Peregrine Maitland, was warned by settlers on the spot.

As indicating that there is no new thing under the sun, we quote two letters, the originals of which are in the Dominion Archives at Ottawa in the Sundries Series Upper Canada for 1822.

John Smith of Lot No. 3 in the 8th Concession of Cramahe in the County of Northumberland writes, October 29, 1822, to Major Hillier, the Governor's Secretary:

"As the Lumbermen are committing sad depredations in this neighborhood by plundering indiscriminately the lands of the Crown and those of Private individuals to the ruin of the lands and great detriment of the country," he asks that this practice be stopped. Major Balfour of Percy said that he had no authority to stop the depredations; Smith wishes "any communication for me to be addressed to Major Balfour.....to prevent suspicion and avoid the revenge of these robbers.....on some of the lots there is lumber enough now cut to pay for 40 years lease....."

Not receiving any reply—the Crown Lands Department of the day was supine—Smith writes again, November 23, 1822; he said that he had written October 29 concerning the depredations and enclosed a copy of the letter; he had sent the former letter by private conveyance and was afraid that it had miscarried. He adds that the amount of depredation in this year is without parallel, principally by Americans who boasted that they would leave the land not worth a farthing for 40 years to come.

Returning to the subject now under discussion all sources of information concur in showing the very great importance of excluding fire. And we can conceive of no more useful and important purpose for which public money can be expended.

Protection from fire has been receiving great and ever increasing attention in many parts of the Continent in the United States as well as Canada.

Under the system in force before 1906, it was greatly to the interest of the lumbermen to protect the timber limit from fire; he had already paid a great part of the purchase money and the substantial loss was his. In the present system, the loss is mainly the loss of the Province, and the interest of the lumberman to prevent fire is by no means so great.

Some of the Forest Fires are caused by lightning and of course, there can be no protection against this cause; but by far the most are the result of causes against which precautions can be taken. The legislation already in force, (1917), 7 Geo. V. c. 54, contains provisions which if carefully and systematically enforced, should prevent many fires.

46. It is recognized that many forest fires are caused by carelessness on the part of campers. Difficulty will be found in dealing adequately with summer campers and those casually in the forest; absolute prohibition would be ineffectual, or if effectual, too drastic.

No objection could fairly be taken to the prohibition to camp, etc., on public lands without a license to be obtained from the local Crown Timber



Agent. Whether these licenses should be made a means of revenue would be a matter of policy to be determined by the Government.

All such precautions and safeguards, however, must be practically nugatory unless a substantial penalty be imposed for violation of them, and an active policy of prosecution adopted and seriously followed. Those offending should be deprived of any existing and refused any further license.

47. If fires, however caused, were to be discovered immediately or even shortly after their inception, the damage caused by them might be enormously diminished.

The great importance of the early discovery of fires suggests that more efficient means might be employed to effectuate that object.

The aeroplane has been employed; that agency is still very costly in itself, and moreover depots for supplies, materials, etc., would require to be established.

We are unable, from the evidence before us, to say whether the aeroplane is an agency economically advisable; the matter should receive the continued attention of the Department, and the results of the experience of other Province as well as the several States should be learned and taken advantage of. In all but the purely financial aspect, the use of the aeroplane is to be recommended.

Fire towers are in use in various parts of the United States with considerable advantage, and there are some in Ontario. The evidence before us does not justify a report on their use, but the Department should carefully consider the extension of the system from the point of view as well of efficiency as of economy.

The Forest Fires Prevention Act, 1917, enables the Minister to employ such persons as he may deem necessary for the purpose of enforcing the provisions of the Act; fire rangers have long been employed and in recent years in increasing numbers. The advantages of careful and competent fire ranging can hardly be exaggerated, and it would seem necessary to employ even more men in such duties. We have already suggested the employment of cullers in fire ranging in the summer; it might be found advisable to put a culler in superintendence of a Fire District with the direction of Fire Rangers, thus justifying a sufficient salary to retain his services continuously throughout the year.

The provision in the bond given by lumbermen to indemnify the Province against loss by fire although useful pro tanto is not a sufficient protection; and there is still large territory without even this protection.

48. We conclude this section by quoting from the evidence of an expert before us. In making suggestions to the Commission with regard to forest fire protection, Mr. B. F. Avery, Master of Forestry, (Yale), said, that sufficient money should "be spent at the critical points to guarantee the safety of the forest. The value of our forests in Northern Ontario is very great and I urge that the money be spent at the critical points; that is in patrol, trail building, telephone lines, and if necessary, aerial patrol, to reduce the chance of fire to a minimum, because the loss in our country is tremendous every year, through perhaps no one's fault, no individual's



fault, but the lack of interest and the lack of a feeling of responsibility on the part of every one ..... It is not possible to go into this matter in a light way; to organize, to get proper protection against fires, it is necessary to employ men of ability, who need to be paid according to their ability; and without greater responsibility than simply the seasonal work of handling rangers, I don't believe it could be accomplished, because you cannot get the men for a season ..... The ideal organization would not come at once. It would mean training men in the different districts until they knew their work. There are men in ..... Northern Ontario whom I believe especially capable of handling the work."

Again, Mr. Avery said: "Fires cannot be prevented—that is the starting cannot well be prevented—because if men travel over a limit they are apt to drop a match ..... you cannot watch every individual on the limit but an organization can be developed which will control fires; and through education and warnings, and through convictions of those who start fires, fires can be controlled and kept out."

### DISPOSITION OF DEBRIS

49. In connection with Fire Protection should be mentioned the disposition of debris, tops and branches; it is well known that the hazard of fire in Forests is largely increased by the want of care in the disposition of tops, branches, etc., in logging operations. When that part of a tree is taken which is commercially valuable, i.e., which will pay for logging and manufacture, there remain the tops and branches—the cull logs and stumps cannot be said to be a fire risk.

The two methods of disposition of the tops and branches which have been suggested are (1) Top-logging and (2) burning.

In the former method, the tops (which are the chief source of danger) after having the branches cut off, lie flat on the ground and thereby become much less dangerous; the branches are lopped so as also to lie flat on the ground and so lose most of their danger. They decay in a short time; and it has been found that danger practically disappears within a year.

In the latter, the branches cut off are gathered into heaps and burned in the season of the year when there is least danger of the fire spreading—the tree top itself being left to rot.

The former method is the more usual and is recommended by lumbermen generally; it is cheaper and may all be performed during the lumbering operations; it is safe, while burning has always an element of danger.

The Forest Fires Prevention Act, 1917, by sec. 9 (6). (11), gives the Lieutenant Governor in Council power upon the recommendation of the Minister to make Regulations for "Regulating or preventing the piling or accumulating of brushwood, debris and other inflammable material" and "generally for the better carrying out of forest fire prevention." This legislation gives sufficient authority to make all the Regulations which are necessary.

Under the agreement made with The Shevlin-Clarke Company, that Company is obligated to burn the brush, etc., on Berths 45 and 49, in the

Quetico Forest Reserve—it is possible that some useful information may be derived from the practical results of this brush burning.

Mr. William Elijah Bigwood obtained in October, 1919, a permit for five years to cut jackpine ties on a territory of 405 square miles with an undertaking to burn the brush. This he swears "we.....under-took..... to demonstrate whether brush burning was practical and what it could be done for." He took in with him as an associate Mr. Laurence Edmund Bliss, who had been Chief Fire Ranger for the Province.

The result in this territory should give some information of value in respect of brush burning in tie and jackpine operations.

### PULPWOOD CUTTING IN PINE AREAS

50. A very dangerous practice has been permitted of pulp companies cutting in the vicinity of pine.

The Spanish Pulp and Paper Mills Company has been allowed to cut pulpwood in the immediate vicinity of "green merchantable pine available for lumbering purposes" in and near the Temagami Forest Reserve, thereby causing serious risk to one of the most valuable assets of the Province. We think that pulpwood in the immediate vicinity of pine should not be allowed to be cut so as to endanger the pine; pulpwood should be sought in other places, and such as is in the vicinity of pine should be left until the pine has been disposed of and removed.

### DISEASES

51. Another grave peril to our forests is disease.

The diseases are caused either by fungoid growth or insect enemies.

Our tamarack supply has been destroyed to the value of millions of dollars—in common with that of Maine, Manitoba, etc., by the larvae of the larch sawfly. This insect, an immigrant from Northern Europe, starting on this Continent in Maine, has spread like a plague from the Atlantic Ocean to Manitoba, destroying all the large tamarack in its course—thus seriously diminishing the supply of railway ties for which tamarack is peculiarly fitted, and for which the demand is ever increasing.

It is appalling to contemplate the possible destruction of our pine in the near future by such enemies as those which have recently appeared in the Province.

The White Pine Blister Rust is probably the more serious; the Commission of Conservation in its Report for 1917, p. 202, says of it that it is a menace to the young and mature white pine." The Report further says, "This is a fungus disease which was originally imported on infected white nursery stock from Europe—as it attacked only the five needle pines, the red pine, jackpine, lodge pole pine and other pines are immune."

This disease in Holland, Denmark and other places makes it impossible to grow white pine in these countries commercially. There is still time to save the situation but really vigorous action is imperative."

This and other diseases have already received the attention of the Department; the evidence before us does not justify us in doing more than to urge the absolute necessity of employing every means in combating these perils.



## REFORESTATION.

52. Next to the necessity of preserving our existing Timber resources comes that of reinstating, so far as is practicable, what has been or will be utilized or destroyed.

Reinstatement presents itself in two aspects. (1) the conservation of natural growth and re-growth and (2) artificial planting. Apart from cutting permitted to concessionnaires by their contracts, the former is almost entirely a matter of excluding fire; but it must be recognized that in many if not all cases, this growth is not of as high a class as the original forest. This is particularly the case with our White Pine. (*Pinus Strobus*): when the original stand of White Pine is wholly destroyed by any means, it can never be replaced naturally or artificially.

There are many wholly denuded areas in the older parts of the Province which are capable of being reforested artificially. Encouraging experiments have been made in this Province and in the Province of Quebec—these do not come within the purview of our Commission, and we do not deal with them.

The Spanish River Pulp and Paper Mills, Limited have in Mr. B. F. Avery an efficient officer who has devoted considerable attention to Reforestation. His experience has been on pulpwood areas, and mainly with black spruce (*Abies nigra*).

He is convinced that in an area which has not been burnt over, and which has an "under storey of spruce" (i.e. spruce of a size too small to be usefully cut), this "under storey" should produce a second cut in 25 years; but that from seed which sprouts the same year the older trees are cut, 40 years are required to produce merchantable trees, and if the area has been burnt over, 60 or 70 years.

If 40 years are required to produce a crop of pulpwood, it follows that in order to prevent the supply being depleted, no more than one-fortieth of the available supply should be cut in any one year, leaving the area so cut over to produce a similar supply 40 years thereafter. This would be practicable for a Pulp Company only if it had a reserve of forty times the area required to produce a year's supply; but if a Pulp Company has such areas reserved for it, it would be proper to require it so to cut as to leave the whole territory in as good or almost as good a position as at first, thus ensuring a perpetual supply.

The Spanish Pulp and Paper Mills, Limited, asserts that it has a supply of raw materials for at least 50 years; if this estimate be correct (and if the territory "reserved" be kept so "reserved," there seems no reason to question it) this Company has a supply for long after the termination of its contracts with the Province.

There could be no hardship in requiring this Company (and others, if any, similarly situated) to make provision to leave the territory in practically as good a condition as when first cut over.

In 1920, the said Company began experimenting with replanting white spruce: the result of these experiments should be watched with care; but apparently the Company's Forester does not consider the scheme of artificial reforestation practically possible, the expense being too great for the return to be expected.



We are of the opinion that natural reforestation must be relied upon almost wholly for the perpetuation of our forests, and that artificial reforestation will play but a minor part.

We quote here, as agreeing with our own conclusions, the opinion of an officer of the Laurentide Company (the President of the Canadian Pulp and Paper Industry Association) whose Company had an extensive reforestation programme and was prominent in such schemes—"that planting would not solve the problem of raw material for wood-using industries."

It cannot be too strongly urged that protection from fire is not only the greatest safeguard for the existing supply, but it is also the most efficient means for assuring a supply for the future.

If in cutting White Pine only mature trees be taken, (fire being excluded) the natural growth may be sufficient to make possible the operation of the limit for a long series of years, if not perpetually—fire excludes this possibility—the second growth in such cases being very inferior to the original.

The late Senator Edwards said at a meeting of the Commission of Conservation, November, 1917, (p. 70):

"A lumberman ..... should cut only the old and mature timber. Some of our limits that were supposed to be exhausted fifty years ago are still being lumbered. Judicious cutting on the part of the lumbermen themselves will solve the question of reproduction."

## REORGANIZATION OF THE DEPARTMENT

53. Mr. Grigg, the former Deputy Minister swore that the system of book-keeping in the Department would be a disgrace to a country store, and that a man familiar with modern systems of accounting could improve on the present methods. This is but a small part of the defects in the system.

Mr. Grigg says—"Given a free hand, given the necessary authority to reorganize the Department ..... it can be properly reorganized and become an asset and a revenue producer for the Province ..... a handsome money-maker."

As to book-keeping, a competent Chartered Accountant could readily suggest a proper and efficient system.

As to reorganization generally, the evidence does not enable us to make recommendations covering the general principle to be followed; but it is apparent that a complete reorganization on modern and scientific lines should be effected.

There are "efficiency experts" whose advice could be had, with a view to the organization of the Department on business lines so as to be "a handsome money-maker."

We are able, however, to make recommendations on certain specific matters.

### EXAMINATION OF RETURNS

54. It is important that those in charge of Returns to the Department should be more than mere routine, entry clerks; the returns should receive intelligent examination and comparison.

For example, the returns received for the whole Province for the three years 1917-1919, give 37 feet as the average per log; but the fact that the returns made by a certain company having large operations in the Sudbury District showed for the same period an average of less than 26 feet per log excited no suspicion and caused no investigation. This would be impossible in a properly conducted business institution.

### CONDUCT OF SALES

55. Applications of trifling importance such as for the right to cut a small quantity of ties, cordwood, etc., may well be dealt with, under reasonably elastic Regulations, by the Local Crown Timber Agent on the spot; but with the exception of such unimportant cases, none of the timber resources of the Province should be disposed of except by public competition.

There should be proper advertisement and such as will give intending purchasers a full opportunity to examine the Limits to be disposed of.

There may be cases in which it is advisable to call for tenders, as for example when timber is injured by fire or tempest; when there is an immediate local demand for lumber, etc., but the general rule we think should be that timber be sold by public auction. We quote as expressing our own view, the evidence of Mr. Benjamin Walworth Arnold, President of The Spanish River Lumber Company—"As to the sale of timber in order to secure the largest revenue for the Province, I would suggest that the sales be made by public auction.....as I understand it, rights to cut timber in Ontario may be acquired privately or publicly. When rights are acquired privately, there seems too often to be considerable suspicion that the Province is not receiving as much compensation as it would, had the timber been offered for sale publicly. In my opinion sales at public auction would be better for the Province, as all bids would be publicly known, and I believe that bidders would frequently try to out-bid each other; whereas when sealed tenders are received, it is quite possible that one or more purchasers may believe that they are about the only ones bidding on a particular block of timber, and will consequently bid very low, believing there will be no competition; but if other firms supposed that timber would be sold at so low a price they would be very glad to over-bid such price, and thus secure the timber."

We see much to recommend a practice of offering for sale at the same time Limits of different sizes, great and small—thereby the less wealthy operator is more likely to receive encouragement by being enabled to buy Limits within his means.

Ordinary business prudence as well as the Statute law calls for the careful observance in all cases of Regulations requiring the cruising and estimate of Limits before being offered for sale. There can seldom be

offered even a plausible and still more seldom a valid excuse for deviating from the legal and proper practice.

If tenders are called for, a precise time should be fixed in the business hours of the Department, for opening them; they should be opened at the hour fixed, and no tenders should be considered which may be received thereafter. The tenders should be opened in the presence of the Minister (or Deputy Minister) and the Secretary of the Department, also if possible the Head of the Timber Branch; a record should be made of each tender as it is opened, which record should be kept permanently on the files of the Department.

It has been made a matter of complaint that a number of valuable Limits have been offered for sale by tender at the same time, and a deposit required for each Limit, in many cases of a large amount—thus the less wealthy tenderer was handicapped and it is stated that some operators have been driven out of business. (This objection of course, cannot be taken in the case of sale by Public Auction.)

It may be considered by the Government whether it should not be made a term of the reception of any tender that it should not be withdrawn or withdrawable.

An instance of the evil effects to the Province from the withdrawal of tenders came before us in the case of the Township of St. Louis.

Mr. Wilbur Carlyle Cochrane had an arrangement with the Spanish River Pulp and Paper Mills, Limited, whereby he was to have the pine and the Company the pulpwood on this Township which had been advertised for sale by tender; a single tender was to be put in for both pine and pulpwood in a single name.

James McCreary put in a higher tender but received \$1,000 for withdrawing it, and the Province received less by over \$50,000 than it would under Mr. McCreary's tender.

This transaction does not seem to come directly under the Criminal Code, sec. 158; and in itself is not illegal.

But the serious loss occasioned by such a practice calls for comment, and if possible precaution against its repetition.

56. A very objectionable, as well as illegal, practice has been followed of granting permits in large areas without competition of any kind. The Crown Timber Act, R.S.O. (1914) c. 29, gives power to the Minister to grant licenses to cut timber "subject to such conditions, regulations and restrictions as may from time to time be prescribed by the Lieutenant Governor in Council." March 7, 1914, the Lieutenant Governor in Council prescribed Regulations, one of which requires that the "Limits shall be offered for sale by public competition" at an upset price after public notice, and that they "shall be awarded to the highest bidder." This Regulation was not respected by the late Minister, who acted "regardless of that Regulation."

This course has in the Shevlin-Clarke case been judicially declared to be unauthorized and illegal.



In the Fall months of 1919 the following were disposed of in this way, without advertisement and without competition. (areas less than 10 square miles are disregarded):

1919	DATE	AREA	GRANTEE	AREA IN SQUARE MILES
	Sept. 2	E. ½ Sheraton Tp.	Monteith P. & P. Co.	18
	" 8	Stanley Tp.	J. D. Kingston	81
	" 15	Cherriman Tp.	W. H. Stubbs	36
	" 22	E. pt Moffat & Beulah Tp.	Marshay L. Co.	42
	Oct. 4	Berth W. R. 7—A	G. E. Farlinger	35
	" 4	Hayward, etc	W. E. Bigwood	405
	" 6	Pt. Norman Tp.	Sp. R. P. & P. Mills	12
	" 20	E. ½ 92, Miss F. R.	P. & H. Shannon	18
	" 27	Middleton Tp.	Harris T. & T. Co.	36
		Foleyette Tp.	Can. N. R.	162
		Ivanhoe Tp.		
	" 28	Cook Tp.	R. S. Potter	36
	" 28	Hardiman Tp.	R. B. Herron & Co.	81
Square Miles				962

Earlier in the same year there were a few.

1919	March 27	Carter Tp.	J. McCreary, Sr.	36
	May 13	Berth Z. D.		
		Kenora, New Ont.	Contr. Co.	39
	May 13	"Z. C."		
		Kenora, New Ont.	Contr. Co.	28
Square Miles				103

The practice was not new; in 1918, there was a total area of 171 square miles, in 1917, 322 square miles; and there were a few in earlier years.

57. The above is wholly irrespective of the licenses in the Quetico Forest Reserve granted to the Shevlin-Clarke Company. It is impossible to state the value of such licenses to the various concessionaires, the evidence before us indicated that some were of considerable value; and the result of the proceedings against the Shevlin-Clarke Company is very significant. It is recommended that the Department make enquiry through its officers into the value of these Limits.

58. We are of opinion that no officer, Minister or otherwise, should have the power to grant rights over large areas of the public domain at will without regard to Regulation; that power was never contemplated by the statutes; it does not at present exist, and should not be given to any individual. Such an arbitrary power subject to no control is obviously open to abuse.

## BURNT AND FALLEN TIMBER

59. We have found a number of instances in which timber injured by fire or tempest has been sold on terms expressly requiring its removal within a limited time. This term is most important, as fallen or partially burnt timber rapidly deteriorates owing to the ravages of "worms." Such timber if removed within the year is but slightly injured; but if allowed to remain more than one season it becomes less and less valuable. After a few seasons it is almost valueless, so much so, indeed, that even if then taken by the lumbermen, the Province receives little or nothing for it.

The terms of sale contemplate that an officer of the Department shall be placed in charge of the cutting. This should be done, but we have been informed that no officer is specially charged with this duty. It was proved that the obligation to remove the timber before the end of the period specified was not regarded by the lumberman or insisted upon by the Department; thus much valuable timber is lost and the Province deprived of much revenue.

An example may be useful:—

The storm which occurred in November, 1913, prostrated large scattered areas of valuable red and white pine in the Mississauga Forest Reserve; the fallen areas with sufficient green standing timber to justify lumbermen in undertaking the operation, were advertised, February 9, 1914; tenders to be in at noon February 27. Tenders being received, contracts were made, and The Spanish River Lumber Company became entitled to the right to cut on a number of Berths, about 180 square miles, either directly from the Department or by purchase from the successful tenderers. The contracts provided for the cutting of as much of the fallen timber as was practicable before September 1, 1914, and of the remainder before April 30, 1915. A large amount of this fallen timber was not cut as provided by the contracts; the licenses have been renewed from year to year on the same terms, but much of the timber, valuable at the time of the sale and up to April 30, 1915, when it should have been cut, has become so deteriorated that no revenue can be obtained from it by the Province, even if the lumberman might utilize some of it. We refer on this matter to our Special Report in respect of The Spanish River Lumber Company, Limited.

60. We recommend that a careful survey be had of all limits disposed of under contracts requiring the cutting within a limited time, and that such proceedings be had as are justified by the facts.

## RESERVES OF PULPWOOD AREAS

61. The whole question of "Reserves" of Pulpwood Areas for particular companies should receive the most careful attention of the Government, and, if necessary, of the Legislature.

In addition to the urgent necessity of the preservation of our natural resources, two points of view cannot be lost sight of, 1, the encouragement and support of existing industries, and 2, the encouragement of new industries. How far it is in the interest of the Province to set aside large areas for the exclusive use of any existing business is a question of public policy to be determined by the Legislature or by the Government

responsible to the Legislature. Strong arguments were made before us as to the necessity or desirability of such Reservations; but we do not conceive it to be within the scope of our Commission to express an opinion on this subject.

It may, however, be proper to draw attention to the fact that a considerable part of the supply of Pulp and Paper Companies is purchased from settlers—that a high price for pulpwood naturally encourages settlement and that if there be but one company, there is no competition for the pulpwood and settlers not on the line of rail must take what that Company sees fit to offer.

The extent of the “Reserves” is already very considerable.

The President of the Abitibi Power & Paper Company, Limited, in a statement, March 1, 1921, says that the Company “controls under lease from the Government of Ontario..... approximately 1,000,000 acres of pulpwood lands,” containing “over 5,000,000 cords of spruce and other paper-making woods, the lease being for 21 years. The Ontario Government..... has set aside for the Abitibi Power & Paper Company, Limited..... an area of approximately 2500 square miles, immediately adjoining the Company’s present timber limits. In due course..... The Abitibi Company will acquire the same rights to this additional area as it now enjoys in its original grant.”

This Company then claims:

Under Lease	(about)	1560 sq. miles
“Reserve”	(about)	2500 sq. miles

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In all 4060 sq. miles

About 2600,000 acres.

Another Company, The Spanish River Pulp and Paper Mills, Limited, according to the statement of its President, October, 1, 1919, claims that it “controls under Lease from the Government of Ontario a total of 11,520,000 acres,” i.e. 18,000 square miles. “Under a conservative estimate the pulpwood owned and controlled by the Company ..... means a 40-year supply of raw material,” taking “no account of reforestation, the natural growth of timber and the large amount..... obtained outside of its own property.”

### PRICES OF JACKPINE

62. In connection with the question of Reserves, the greatly increased value of jackpine must not be lost sight of.

We have pointed out in a Special Report that the right to cut jackpine for other than pulp or paper manufacture was given to the “Espanola” Company (The Spanish River Pulp and Paper Mills) by the agreement of 1909. This privilege and that of cutting railway ties at 5 cents per tie given at the same time, are now of very great value.

The value of jackpine has much increased in recent years; and this increase should be borne in mind in all subsequent transactions, as well as in determining the policy to be followed.



## INTEREST

63. The Spanish River Pulp and Paper Mills, Limited, was generally in arrears to the Department in large sums; and it was suggested in evidence that other operators were in the same state. Simple interest was charged on the arrears at the rate of 6 per cent. simple interest only. The practice of allowing payments to be in arrears is wholly vicious; special circumstances may indeed occur in which leniency may be shown; but the settled principle should be to require payment to be made as and when due. It is contrary to elementary principles that the Province should act as Banker for its debtors in this way; if credit is given at all, it should be given on ordinary banking terms.

In addition to the loss of interest by such leniency, we are informed by Mr. Grigg that the Crown has suffered considerable losses at times. The Department as Trustee for the Province should use the means given by law to prevent such losses.

## PUBLIC DOCUMENTS

64. The late Minister had private files, and there were official files of the Department. Mr. Carroll Carson Hele, his Private Secretary (who was also Secretary to the Department and at times Acting Deputy Minister) gave evidence of the practice. We extract Mr. Hele's evidence on the subject:—

“MR. HARDING: A man may write a letter in to the Department, the first part of the letter being an entirely private matter and the latter part of the letter would deal with a business matter in connection with probably a lumber operation as you have suggested, or a land matter.

“MR. JUSTICE RIDDELL: Q. Where would that go?

“A. In cases of that kind we tried so far as possible with the check we had to make a copy of the paragraph of the letter and send that to the Records Room, and the letter itself was kept on the Minister's file.

“Q. That is, if there was anything in the letter of a clearly private nature, then the original letter would be kept in the Minister's private files, but you would at least in some cases make a copy of such matters as you thought concerned the Department? Am I putting it correctly and fairly?

“A. Yes, your Lordship.

“MR. HARDING: Q. If a Canadian citizen wrote a letter complaining to him about the operation of the Department, and making suggestions to him that it should be changed, for instance that the system of culling was ridiculous, and making a lot of suggestions as to how it should be changed, and he answered that letter without marking it 'private' or 'confidential' as the Minister of Mines, would that letter and that copy be put in the private files?

“A. That would depend on the character of the letter. A great many letters are received from cranks.

“MR. JUSTICE RIDDELL: “Q. Who has to determine whether a man is a crank or an honest complainant?

“A. Letters of that kind are classed as letters of policy, and those are kept on the Minister's file.

"Q. Any letter which is written to the Minister, according to your view, which will involve some question of the policy of the Department will go on his private files?

"A. Unless it contains a specific charge against some official. In that case it is directed to the Deputy Minister.

"Q. But suppose it is not some official, but some lumberman? A. Some lumber company?

"Q. Yes? A. If it was not marked 'private' I have no recollection of any letter having been kept, if it was a direct charge against any lumber company.

"MR HARDING: Q. It is not a case of a charge at all. Supposing a citizen wrote to Mr. Ferguson two or three years ago and in the letter outlined to him his experience in the woods and his experience with the Department, and told him it was wrong in many instances, and made a number of suggestions as to how it could be rectified, and how any lapses could be cured, and he answered that letter as I tell you, would that be taken away with him in his private file or left in the Department?

"A. I rather think it would be kept in his private file, because possibly he intended to take the man's suggestions into consideration at some later date.

"Q. Then we can take this for granted, that all the complaints made to Mr. Ferguson about mal-administration of the Department have been taken away?

"A. I would not say that.

"MR. JUSTICE RIDDELL: Q. Were there any complaints made concerning the mal-administration of the Department?

"A. I think so.

"MR HARDING: Q. What was done with them?

"A. So far as I remember they were kept on the private file.

"Q. And all taken away? A. Doubtless, yes.

"Q. And his answers taken away? A. Yes.

"Q. So there is neither a complaint nor the answer thereto in the Department? A. I think you will find some; I do not think they were all taken away.

"MR. JUSTICE RIDDELL: Q. Again I am somewhat troubled; do you mean to say that any letter he wrote as Minister upon official paper would not go into the Departmental files?

"A. Not, my Lord, if it was on a private matter. If it was on a business matter, it would be put on the public files.

"Q. I am speaking here of the complaint we have been hearing of? A. In some cases the complaint would not go to the public file, nor the Minister's answer, for in many cases the complaints are made in a political way and are kept out of the public file.

"Q. I have not the faintest idea what you mean by 'In a political way'? A. A man may write a letter to a Minister and say that one of his appointments, a fireranger or a scaler or some other person, has not been carrying out his work and is only a political hack—containing insinuations of that kind—and as a rule we write to the Deputy Minister to investigate the matter, but as a rule the matter was not put on the public file.

"Q. What about the Minister's answer?

"A. His answer in all cases was sent to the official file, and was final in the matter.

"MR. HARDING: O. But the original complaint was kept on the Minister's private files? A. Yes.

"Q. Those are the letters he took away?

"A. Yes.

"Q. If a man wrote a letter suggesting a change in the policy of the Department, suggesting where in his judgment changes could be made that would be beneficial to the public, would that be put on his private file, and also the Minister's answer? A. That would depend entirely on the Minister's ruling in the matter. If he thought it was of sufficient importance and one that would prove of service, in every case he asked for a memorandum from the official directly in charge of that work. If it was not, in his opinion, of importance, he would simply file it on the file and have an acknowledgment sent to the writer, keeping that on his private file."

"MR. JUSTICE RIDDELL: Q. What troubles me is this: Certain letters recommending a change in the policy of the Department came in to the Minister. He knows perfectly well that he is not going to live forever, and according to the way elections have been running in this Province, he cannot expect to remain forever in office; there will be a change at some time, I do not understand how the Minister can look upon that information as private and not put it on the official files of the Department for those who may follow him. I am trying to find out why that was done?

"A. Possibly he was holding it to discuss the matter in Council.

"Q. And after that it should go on the file?

"A. If it was dealt with by Council it would go on the file.

"Q. And if not dealt with by the Council?

"A. Then it would not go on the file.

"Q. Again I am troubled, because he might think it not worth while to put it before the Council and it might be a matter of the greatest importance, and while he might not think it of importance his successors might, or his subordinates might?

"A. No answer)."

65. We think such a practice as Mr. Hele describes is unwise and unbusinesslike. The Minister is mortal, and no Government can rely upon remaining in power forever; every document which bears in any way upon the public business or the property of the Province should appear on the public files.

66. We found that in many cases there is no departmental record of applications that were afterwards granted: in some cases, there was conflicting evidence as to these. We think this an improper practice. All applications to the Department or any officer thereof for a concession of or right or privilege in any part of the property of the Province should be in writing, should be entered as received, and should be placed on the public files. If at any time an oral application be made, a full memorandum



of the application should be prepared forthwith and duly filed. It is unwise to leave matters of importance to fallible recollection, particularly matters in respect of which there is a trust for the people.

### PUBLICITY

67. We recommend that a complete statement be made and published of the existing contracts, licenses, permits, etc. under which any person or company has the right to cut on Public Land.

In addition, we think that there should be contained in the Annual Report of the Minister, a statement of all transactions of any importance during the year, including the following:

- (1) A list of the Licenses, Contracts, Grants, Reservations, etc., issued or made during the year, with full particulars of locations, areas, prices, etc., and whether by public competition or private negotiation, by tender or by auction, length of advertisement, etc.
- (2) A list of the permits for over 20,000 ft. B.M. of timber, 2,000 ties or 500 cords of pulpwood or cordwood, with particulars.
- (3) A summary of the returns from each operator, stating in each case the number of pieces and footage reported and the average at logs, etc., (with separate statements concerning logs cut and logs purchased); quantity of pulpwood (with separate statements of wood cut and wood purchased).

The principal reason for this recommendation is the right, which we recognize, of the people of the province to know what disposition has been made and is being made of their property, and what returns are being received from it.

### LEGISLATION

68. We think that there should be a careful examination of all Legislation, Orders-in-Council, Regulations, etc., concerning the Timber of the Province, that they should be co-ordinated and, where necessary or advisable, amended to make a consistent Code of the Law governing the matter. This Code should be printed and furnished to every Agent, culler and other officer of the Department, as well as to every concessionaire.

Neither Statutes nor Regulations are of much use unless they are enforced; the only course to prevent violation of either is to prosecute those who violate them.

Penalties sufficiently severe should be imposed upon wilful violators, whether in the Department or not, and prosecution should follow as a matter of course.

### FURTHER INVESTIGATION

69. We would suggest a careful perusal of the evidence before us as to the various persons and companies concerning whom we have not made full enquiry and have, therefore, not reported. There are some instances

of alleged settlement which invite close scrutiny; certain trespasses apparently not paid for, and several instances of returns not wholly satisfactory.

The irregularities in the practice of companies of apparent good standing lead to grave suspicion of others— who may be innocent—it is time for a cleaning-up.

A first class and experienced Accountant, such as gave such valuable evidence before us, should go over the returns of the various operators, should examine their books, including the records at the mills, and generally make such investigations as have proved valuable in our enquiry—the honest operator has nothing to fear, the dishonest (if there be any) should receive no consideration.

### COUNSEL

70. We have to thank Counsel for the Crown for the Liberal-Conservative Opposition in the Legislature of Ontario, and for some of the persons and companies under investigation, and also the Accountants employed by the Crown, for the very great assistance we received from them in our investigations.

### CONCLUSION

71. In conclusion we would say that to have a proper and adequate return from the timber resources of the Province, the Department must be conducted on business principles.

Reorganization will be useful; but in the end success must depend upon the personnel of the office. Competent men should be employed and should be paid a proper salary; they should have security of tenure of office and not be removable except for inefficiency or dishonesty, rendering them independent of pressure from any source and of influence, political or otherwise, however and by whomsoever exercised.

72. The evidence is transmitted herewith.  
All of which is respectfully submitted,

(Sgd) William Renwick Riddell,  
(Sgd) Francis Robert Latchford.

Toronto, June 26, 1922.

**SPECIAL REPORT ON THE MARSHAY LUMBER COMPANY, LIMITED**

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To His Honour, The Lieutenant Governor of the Province of Ontario:  
In Council.

We, the Commissioners appointed by the Commission of the Ninth day of March, 1920, have the honour to make the following, a Special Report, in respect of The Marshay Lumber Company, Limited.

1. The Company was in September, 1916, without competition, granted a permit to cut Timber in the Township of Frechette, in the Temagami Forest Reserve, an area of 33 square miles.
2. This transaction was illegal for the reasons given in our Interim Report concerning The Shevlin-Clarke Company.
3. Moreover, "The Forest Reserves Act," R.S.O. (1914), c.30, sec. 5, permits the sale of Timber on a Crown Forest Reserve, only when it has been damaged by fire or has attained mature growth—and there is no evidence before us that either of these conditions existed here.
4. The same Company was in September, 1919, without competition granted a permit to cut Timber on the Eastern part of the Townships of Beulah and Moffat—an area of 42 square miles, also within the Temagami Forest Reserve; this also was illegal, for the same reasons.
5. In the returns made to the Department, the foreman and clerks were not as a rule sworn, though their signatures were obtained to what purported to be affidavits—one alleged deponent swore before us that he would not have taken an oath had he been asked.
6. The local manager of the Company who made (or purported to make) the affidavit required by the Statute at the end of the season, did not in fact examine the books, tallies and memoranda, looking, as he says, upon the affidavit as a matter of form.
7. The culler, Phineas Coyne, who appeared before us as a witness is wholly unreliable.
8. Many of the Shanty Books were made up in the office of the Company and bear strong internal evidence of having been made up at one time, and of never having been used in the shanty.
9. Some of those who kept the Shanty Books deducted about five per cent. from the Number of Logs returned by the men as having been cut; and one, at least, deducted considerably more than five per cent.
10. We have in other Reports, Interim or Special, set out the securities for the Province receiving payment for all the timber cut; The Statutes, Regulations, etc., prescribing the securities were not in fact observed by the Company.



11. The following is a statement taken from the Books of the Company, along with information given by the Company's officers, of the sawing at the mill, of the logs returned as cut on the Limits, and the logs bought, the output and the percentage of over-run. (For the purpose of determining the amount to be paid to the Province only the "Merchantable" is to be considered; that only enters into this Report.

THE MARSHAY LUMBER COMPANY LIMITED

Statement Showing Cut and Purchased Logs, Lumber Production and Over-run from 1915 to 1920.

	Cut from Ont. Govern- ment Lands	Logs Purchased	Total	Deduct Closing Inventory	Logs Con- verted into Lumber	Total Lum- ber Produc- tion all grades
1914-1915.	2,400,276	.....	2,400,276	.....	2,400,276	6,482,293
1915-1916.	1,136,028	399,224	1,535,252	.....	1,535,252	4,973,713
1916-1917.	1,583,283	.....	1,583,282	.....	1,583,282	6,893,440
1917-1918.	2,688,351	.....	2,688,351	.....	2,688,351	9,816,625
1918-1919.	2,785,566	2,396,856	5,182,422	Dec. 11, 1921	5,182,422	12,861,607
1919-1920.	11,220,061	5,062,344	16,282,405	3,940,250	12,342,155	18,021,160
	21,813,565	7,858,424	29,671,988	3,940,250	25,731,738	59,048,838

Over-run	Percentage	Merchantable Lumber only	Over-run on Merchantable only	Percentage
4,082,017	170%	3,095,137	695,095	29%
3,438,461	224	3,089,231	1,554,029	101
5,310,157	335	4,253,957	2,670,674	169
7,128,274	265	6,291,562	3,603,211	143
7,679,185	148	7,169,191	1,986,769	38
5,679,005	46	Under-run 10,257,703	10,509,778 Under-run 2,084,452	17
33,317,099	129%	34,157,065	8,425,326	33%

12. From the above statement it appears that in 1915-16 when about 25 per cent. of the Timber sawn was purchased, the over-run of "Merchantable" was 101 per cent.; in 1916-17 when none was purchased, the over-run of "Merchantable" was 169 per cent.; in 1917-18 when none was purchased, the over-run of "Merchantable" was 104 per cent.; in 1918-19 when nearly 50 per cent. was purchased, the over-run of "Merchantable" fell to 38 per cent.; and in 1919-20 when about 31 per cent. was purchased, there was an underrun of "Merchantable" of 17 per cent. Of course, it is to be expected that the actual amount of the logs purchased would be determined between Vendor and Purchaser as accurately as possible.

13. Some part, but by no means all, of the over-run is legitimate on account of the Doyle Rule used by cullers.

14. Alphonse Ranger during the years 1917 to 1920 cut many logs and delivered them to the Company, in all about 80,000 pieces; returns signed but not sworn were made to the Department of a small part of these, but none of most of them. No explanation has been made of this omission; it is, however, suggested that possibly some of the logs may have been returned through another Company, although no such return has been found. The Company through their Counsel expresses a willingness to pay the proper dues, if they have not been paid—there was before us no evidence of payment.

15. We recommend that all necessary proceedings be taken to recover for the Province payment for Timber not returned as shown by the excessive overrun, and also for payment for the Ranger logs.

16. We also recommend that such proceedings be had in respect of the Timber illegally cut in the Forest Reserves as are justified by the facts above detailed.

17. There were several trespasses by the Company, some if not all of which are said to have been settled for. On the evidence before us, we cannot be certain as to the precise facts. We recommend that the Department make careful enquiry into the matter and that such proceedings be had as the facts justify.

18. We also recommend that the McNamara Lumber Company, a company associated with the Marshay Lumber Company, be carefully investigated—the evidence before us was not conclusive.

19. The evidence relating to this matter is transmitted herewith.  
All of which is respectfully submitted.

(Sgd). William Renwick Riddell,  
(Sgd). Francis Robert Latchford.

Toronto, June 26th, 1922.

## SPECIAL REPORT ON THE NEW ONTARIO COLONIZATION COMPANY, LIMITED.

To His Honour, the Lieutenant Governor of the Province of Ontario: In Council.

We, the Commissioners appointed by the Commission of the ninth day of March, 1920, have the honour to make the following, a Special Report, in respect of the New Ontario Colonization Company Limited.

1. One William Rushworth from Windsor, "a sort of real estate and timber agent," in 1912 approached the Government for the grant of two townships in Northern Ontario. As it was not found practicable to subpoena Rushworth, we are unable to say how and what negotiations were carried on; but Rushworth, claiming to have two Townships in Northern Ontario for sale spoke to Willis Kingsley Jackson of the firm of Jackson & Tindle, Lumbermen, of Buffalo, (operating in Michigan), Rushworth's Solicitor, Mr. Ernest S. Wigle, was brought into the transaction by him on account, as he (Mr. Wigle) says of him "knowing the Department..... on account of personal reasons and a friend of the Government"—Rushworth asked Mr. Wigle to aid them in getting a contract; he acted throughout as solicitor and had no personal interest in the matter. It was agreed that Rushworth should receive a commission if he succeeded in actually procuring the Townships.

2. On June 14, 1912, a contract (printed at length pp. 83-88 of the Report of the Department of Lands, Forests and Mines, 1911-12), was entered into without advertisement or competition, by the Government of the one part, and Jackson, Rushworth and Wigle of the other part, whereby they agreed to pay to the Government \$98,364.00 (being \$1 per acre not under water) for the exclusive power, right, license and authority of clearing, cultivating, occupying, using and enjoying the two Townships of Kendrey and Haggart, (with certain reservations not of importance in this enquiry), 154 square miles of land—it being the intention of the parties of the second part to turn the contract over to Jackson & Tindle.

3. Rushworth transferred all his interest to Jackson & Tindle for his commission of \$17,000, and Wigle had no interest in the transaction except as Rushworth's solicitor.

4. The purchasers in and by the said contract of June 14, 1912, agreed forthwith to "proceed to settle and colonize the said lands with bona fide occupant farmers and settlers.....; within two years ..... at least 2400 acres ..... to be occupied and settled by at least 16 bona fide farmers or settlers, and during each succeeding .....year thereafter for.....19 years ..... at least 2400 additional acres ..... to be occupied and settled by at least 16 additional bona fide farmers and settlers."

5. A Company was formed, the New Ontario Colonization Company, Limited, Rushworth and Wigle having, as a matter of form, one share each, and Jackson & Tindle the remainder of the \$1,000,000 common and \$250,000



preferred stock. All that has been done by the purchasers under the said contract has been done in the name of the said Company, the contract having been assigned to Jackson & Tindle and by Jackson & Tindle to the Company. Some preferred stock was sold by Jackson & Tindle with a bonus of common, whereby the payment to the Government was reimbursed to the firm.

6. A number of Danes were brought over and sent to the land; but they remained only until they could get away; some other settlers have been brought in, some of them, it is said, under written contract with the Company.

7. The Contract with the Government provides for the construction within twelve months of a permanent saw-mill, planing mill and lath mill; these were erected as agreed. The saw-mill began working in 1914 and has been operated ever since during the summer season, sawing "everything that the land grows, tamarac, spruce, balsam and poplar," into lumber and pulpwood.

8. The contract provides that all timber cut on the lands (except pulpwood) should be manufactured at the mills of the purchasers, "and disposed of within the said townships to the satisfaction of the Minister or otherwise to the satisfaction of the Minister;" also that "no pulpwood cut from the said lands shall be exported from Canada without the permission of the Minister."

9. In 1913-1919, inclusive, the Company cut 31,862,977 feet of lumber which was sold "all the way from Hearst to Cochrane and Cochrane to Toronto .....Hamilton, St. Catharines, Guelph." There were also about 50,000 feet of boom timber, etc., sold to a Pulp Company, amounting to \$2,000 or \$2,500.

During the same time, 18,804 cords of pulpwood were obtained by the Company, of which about 3,000 cords were exported by permission of the Minister; also, there was manufactured 9,826,450 lath. No dues of any kind were paid or payable to the Province on the said cut.

A total extent of 15,761 acres has been cut over, about one-sixth of the whole area.

10. By the terms of the contract there should by June, 1920, have been settled and colonized by the Company on the said lands, 112 bona fide occupant farmers and settlers. There were in fact only 7 who are claimed by the Company as such; of these one (McKay) is in charge of the logging operations of the Company at an annual salary—he has a garden patch, 1½-1 acre; another (Avery) is employed in the Company's mill in the summer season; another (Ringworth) is a jobber and takes out logs for the Company and sometimes in the summer, ditches, builds roads, etc., for the Company, generally with a contract; he cultivates four or five acres; another (Carvine) is a jobber and cultivates four to five acres; another (Cooley) works steadily as night foreman for the Company during the sawing season, and works his farm, about ten acres, hauls logs, etc.; another (Oliver Richardson) a teamster, works almost entirely for the Company and has "possibly four or five acres" under cultivation; the

seventh (Lamothe) usually works in the mill in the summer, sometimes in the winter, as log marker and scaler, and has "just a garden patch, a few acres under cultivation."

Each of these has a house outside of the townsite; and on the townsite, there are eight to ten houses, said to have been built by settlers who took land, but who no longer occupy the houses.

Those who live out of the town get their work in the town, and if it were not for the town they would not be there; and there is not a single bona fide farmer and settler making his living off the land.

Not more than 250 acres of land has been cleared in all, and only 67 acres are under cultivation.

11. The contract provides that "upon breach or default by the purchasers in carrying out any of the terms of this agreement, this agreement and all rights, benefits and advantages of the purchasers thereunder shall at the option of the Government to be notified..... in writing, forthwith cease and determine"—provision being made for the protection of bona fide settlers, etc.

12. It is obvious that the intention of the Province in this project was to promote settlement; and in this regard the scheme has almost wholly failed.

The object of the purchasers is made manifest by the form of contract proposed to be made with the Colonists; it provides that all the timber on the land (except what is necessary for fuel, building, etc.) is reserved to the Company, showing that the Company considered the scheme as a lumbering proposition.

13. Only about one-sixth of the timber has been cut; some has been lost by fire, but the remainder should not be given to the Company, which has failed to carry out the provisions of its contract of most importance to the Province.

14. There is no clause in the contract enabling the Government to recover damages from the Company in case of failure to carry out its undertaking.

15. We recommend that proper notice be given to the Company under the terms of the Contract. ✓

16. We transmit herewith the evidence respecting the above matters. All of which is respectfully submitted.

(Sgd). William Renwick Riddell,  
(Sgd.) Francis Robert Latchford.

Toronto, June 26th, 1922.

## SPECIAL REPORT ON THE SPANISH RIVER LUMBER COMPANY LIMITED, AND ASSOCIATED COMPANIES.

To His Honour, the Lieutenant Governor  
of the Province of Ontario: In Council:

We, the Commissioners appointed by the Commission of the Ninth day of March, 1920, have the honour to make the following, a Special Report, in respect of The Spanish River Lumber Company, Limited, and associated companies.

1. The Spanish River Lumber Company, Limited, carries on its business to a large extent in connection with other companies. All these companies are almost wholly owned by the same persons; and they will for convenience be treated as one company in this Report.
2. The Company holds in all about 920 square miles of Timber Limits, and has been in active operation for some years.
3. The amount to be received by the Province for the timber cut by the Company is calculated upon the price fixed by the several contracts, and the quantity of timber reported as cut.
4. In the case of certain of the Limits, a considerable sum was paid down to the Province; and thereafter, a comparatively small sum was paid for the timber as cut (\$1.50 or \$2.00 per thousand feet, B.M., "Merchantable.")
5. The system in vogue on such Limits was and still is that the Company should name and pay the cullers appointed to estimate the Timber cut, the cullers being under the direction and control of the Company and their work being from time to time checked by Inspectors appointed by the Department. The small amount of dues to be paid for Timber cut on such Limits made the accuracy of the measurement by the cullers relatively unimportant.
6. Others of the Limits are held by the Company under contracts which provide (in addition to \$2.00 per thousand feet B.M., of Crown dues) for the payment of Rates set out in the contracts, per thousand feet, B.M. "Merchantable," of the different kinds of Timber cut—these differ in the several contracts, running up to \$6.55 per thousand feet, B.M. This is commonly known as the "Stumpage Basis."
7. Under these contracts, the greater part of the payments to the Province comes from the Rates on Timber reported cut—and, consequently, the accuracy of the returns made to the Department is of very great importance.
8. The Statutes provide:
  - (a) That the culler must "measure fairly and correctly to the best of his skill, knowledge and ability, all saw-logs which



he may be employed to measure, making only such deductions as are necessary to allow for rots or other defects."

- (b) That the culler shall "enter in a book of record for the purpose of return to the Department, what he believes to be the proper contents of the logs, noting also the number of saw-logs rejected as worthless, commonly called culls."

Books of record are supplied by the Department for the purpose.

The Statutes further provide:

- (c) That "at the end of the season every culler shall make a sworn return, upon forms supplied by the Department or its agents, which shall show the number of pieces measured and accepted by him, and their respective lengths and diameters, and also the number of pieces rejected as worthless."

Before the year 1906, there were officers of the Government whose duty it was to check the work of cullers by tests applied from time to time, but in that year (1906) the system was changed, and on Limits disposed of thereafter, the Government has had no check by its own officers upon the honesty and capacity of cullers.

The Statutes further provide:

- (d) That every person who cuts saw-logs on Public Lands shall cause to be kept in each camp, etc., the records prescribed.

Blank books for such records are supplied by the Department, commonly called Shanty Books.

The Statutes further provide:

- (e) That at the end of the season each record shall "be verified by the oath of the person who made the entries therein and be delivered to an officer of the Department."

The foreman, a clerk or other person in such lumbering operation charged with the duty of keeping this record in the Shanty Book, is required to make an affidavit (more particularly described in sec. 10, *infra*) that he verily believes that the Book "contains a true record of the cutting, skidding and hauling done at this shanty during the past winter."

Blank forms for both kinds of affidavits viz:—that of the culler and that of the foreman, etc., are supplied by the Department.

9. It is obvious that the return by the Culler and that by the foreman, etc., in each shanty, are intended to be checks on each other, and in that way to be a protection for the Province.

10. Plainly printed in the Shanty Books supplied by the Department, is the direction:—"The Foreman, Clerk, or person who keeps this book should obtain the reports from the men on their return from work and enter them immediately." He is also directed to make, when the season's work is closed, an affidavit that it was his duty to keep the book and make the entries therein, that the men engaged in the operation of cutting, skidding and hauling sawlogs and timber were instructed to report to him on their return from work each evening the number of pieces of sawlogs and

timber which they had cut, skidded and hauled during the day, and "that they did so report each day's operations, which I carefully and correctly entered in this book in the several columns prepared for that purpose."

11. The Superintendent and Office Manager of the Company gave instructions that instead of entering in the book the number of logs returned as cut by the men, day by day, the person keeping the book should deduct about five per cent. from the number so returned.

12. These instructions were generally followed; and five per cent. (and in some cases much more) was deducted from the return made by the men; and the balance was either then or later entered in the Shanty Books as the actual return for the day. Some of the Shanty Books returned to the Department as having been entered up from day to day in the shanty, were not so entered up in the shanty, but were prepared in the office of the Company at the end of the season; and they bear internal evidence of having been all written up at one time.

13. Every night, however, there was a record made of the actual number of logs reported by the men; and generally a return of these numbers was sent in weekly to the Company along with a return of the numbers entered or intended to be entered in the Shanty Book, so that at the end of the season the Company had two counts, one of the actual amounts returned by the man and the other of these amounts reduced by five per cent. or more.

To take one instance, the report of one culler to the Department for 1917-18 was 48,512 logs, the report made by the same man to the Company as the amount given in by the men was 60,073, a difference of 11,561 logs, showing a deduction from the number of logs returned by the men of nearly 20 per cent. The discrepancy in other cases is not so great; but in almost all instances it is 5 per cent or more. We are satisfied that the larger of the two counts was substantially the true amount.

14. The Shanty Books were at the end of the season returned by the Company to the Department with what purported to be the affidavits of the persons keeping them. No return was made to the Department by the Company of the numbers actually reported by the men from day to day.

15. The Department was wholly unaware that deductions were made for the Shanty Books from the returns by the men; and that double returns were made to the Company.

16. Some of those keeping the Shanty Books did not make affidavits as to the accuracy of their returns, though they signed documents purporting to be such affidavits—e.g. O'Brien, Foreman for seven years, Walking Boss for four, never made an affidavit; he signed returns usually made up by the bookkeeper of the company and generally in the office of the company, (his deductions were 5 to 8 per cent.) Some documents purporting to be signed by foremen and to be sworn to by them, are repudiated by the alleged signers as not having been signed by them; and in some instances, signatures were obtained to affidavits in blank which were afterwards filled in, signed by the Commissioner, and returned as actual affidavits.

The Bookkeeper of the Company at Massey, Mr. Theodore Ellis, was a Commissioner for taking affidavits; he did not swear the alleged deponents to the affidavits in the Shanty Books, being, as he says, "influenced very considerably by the fact that he knew that the men must know that the returns were not accurate, and that they could not honestly be sworn to."

It is a matter for comment that in some instances the culler on Limits sold on the Stumpage Basis, referred to in paragraphs 6 and 7, was also employed as clerk by the company on the same Limits, e.g. John Spaven was paid \$75.00 per month by the Company as clerk while receiving \$5 per day from the Department as culler.

17. The Statute provides that every licensee shall make a return of the number and kind of trees cut, and of the quantity and description of sawlogs, carried away, and that the return shall be verified by the oath of the licensee or his agent or by his foreman. Forms of such affidavits are furnished by the Department; they contained a clause that "no second or duplicate set of books of accounts, or tallies of logs or timber, or measurement of the same has been kept by the said" lumbermen, "or by anyone on their behalf."

Consequently these affidavits could not be honestly made.

Nevertheless, documents purporting to be such affidavits, sworn to by the Manager and the Superintendent, were sent in by the Company to the Department, in which these officers purport to swear that they had examined the books of account and record and all books, tallies and memoranda kept by the foremen and cullers, that the statement annexed as a return was true, and that "no second or duplicate set of books of accounts, or tallies of logs or timber, or measurement of the same has been kept by the said" lumbermen, "or by anyone on their behalf." (In many instances, at least, an oath was not in fact administered by the Commissioner.)

In addition to the untruthful statement as to no second tally of logs, etc., it appeared that the alleged deponents had not examined the books of account and record, books, tallies and memoranda, so as to be able to give reliable information and pledge their oath as to its accuracy.

19. The Province, therefore, had not the protection in that respect which is contemplated by the Statute.

20. The result was that the only protection to be found was in the cullers' returns, on which the Shanty Books afforded no real check. Moreover, on all Limits sold on the Stumpage Basis referred to in paragraphs 6 and 7, there was no check for the Province by inspectors on the work of the cullers.

21. The cullers did not "measure all sawlogs," as required by the Statute; in some cases not more than 25 per cent. of the logs were actually measured.

22. Some of the cullers did not swear to the returns made at the end of the season, although documents purporting to be sworn by such cullers were in all cases sent into the Department.



23. An actual examination was made by competent men on a certain Limit to determine if the true amount of Timber cut had been returned to the Department; and while the examination could not attain perfect accuracy, a reasonably close estimate could be made. It thereby appeared that the amount returned to the Department of timber cut on such Limit was much less than what was actually cut and removed by the Company.

24. The books of the Company show that there were always more logs sawn at the Mills than were returned to the Department as cut; for the years 1910-1919 (inclusive), the numbers were as follows:—

The number of logs actually sawn was..... 6,467,374

—and—

The number returned as cut was..... 6,169,351

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298,023

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a difference of nearly 5 per cent.

(These extra logs at the low average of 25 feet per log would give 7,450,575 feet of lumber for which the Province received no payment of any kind.)

As it is sworn that about one per cent. of the logs are lost in driving or towing, the number of logs cut which were not returned is approximately 6 per cent.

25. The books of the Company show a large overrun of lumber sawn beyond the amount estimated by the cullers and returned to the Department.

26. In the ten years 1910-1919 (inclusive), the amount returned to the Department of "Merchantable" lumber was.....181,131,089 ft.  
The amount of lumber actually sawn was.....429,879,580 ft.  
of which the "Merchantable" was.....285,334,944 ft.

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an overrun of "Merchantable".....104,203,855 ft.

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or over 57 per cent.

27. Some part, but by no means all, of this overrun is legitimate, on account of the Doyle Rule used by the cullers.

28. A storm occurred in November, 1913, causing the fall of considerable Timber in scattered areas in the Mississauga Forest Reserve. The Department proceeded to dispose of this timber and certain adjoining standing timber, and called for tenders, February 9th, 1914, the tenders to be put in by February 27.

29. The Company was the successful tenderer in a number of instances and received Licenses for a large area in the Mississauga Forest Reserve; and it acquired from others the licenses on other areas in the same Reserve.

30. As there was considerable fallen timber which would deteriorate in a short time (by reason of the incursion of "worms"), a clause was inserted in the said licenses reading as follows:

- (6) The successful tenderer shall proceed with such force of men as shall secure the cutting of as much of the fallen timber as is practicable so to do, before the 1st of September, 1914, and shall cut the remainder of it before the 30th of April, 1915. The cutting to be done in accordance with the directions of the officer of the Department of Lands, Forests and Mines who is in charge of the same. Any timber which in the opinion of such officer should be cut, delivered and paid for, if left in the bush uncut or unhailed, shall be charged for at the tendered price and dues, which amount shall be deducted from the deposit.

31. There was no officer put specially in charge of the cutting of this fallen timber, and so far as appears, no supervision was exercised over it; and all the fallen timber has not been cut, as provided by the said clause. The Licenses have been renewed from year to year.

32. There is a great quantity of this fallen timber still uncut. No permission to leave it uncut has been obtained from the Crown Timber Agent who, it is suggested, may be considered as having been in charge of the cutting, or from any other person; and no payment has been made to the Department for such uncut timber. A very serious loss has thus been occasioned to the Province.

33. The Company, through its Counsel, contends that notwithstanding the express term in the License that all the fallen timber is to be cut before April 30, 1915, it is not compelled to cut this timber, unless directed so to do by the Department or its officer.

34. We recommend that this matter be adjusted on an equitable basis; and that if this be found impracticable, the opinion of the Court be had.

35. We further recommend that proceedings be taken to recover the amount to which the Province is entitled by reason of the timber which was cut not having been returned in full.

36. The evidence relating to this matter is transmitted herewith.

All of which is respectfully submitted.

(Sgd.) William Renwick Piddell.

(Sgd.) Francis Robt. Latchford.

Toronto, June 26, 1922.

## SPECIAL REPORT ON THE SPANISH RIVER PULP AND PAPER MILLS, LIMITED.

To His Honour, the Lieutenant-Governor of the Province of Ontario: In Council.

We, the Commissioners appointed by the Commission of the ninth day of March, 1920, have the honour to make the following, a Special Report, in respect of The Spanish River Pulp and Paper Mills, Limited.

1. The Company was incorporated in 1910 to take over the assets of the Spanish River Pulp & Paper Company, Limited, a going concern which manufactured ground wood pulp. In 1912, the Company acquired the Ontario Pulp & Paper Company, Limited, and in 1913, the Lake Superior Paper Company, Limited.
2. The Company became entitled to the benefit and subject to the burden of certain contracts made with the Government of Ontario.
3. The first to be considered is dated November 21, 1894, which may be called the "Clergue Agreement". In this agreement the contractor agreed to "erect and equip pulp and paper mills and establish a pulp and paper industry and other industries allied thereto at Sault Ste. Marie, so as to utilize the aforesaid power, costing in the aggregate not less than \$200,000 for mills equipment, switches, sidings and plant—all complete for work on or before the 31st day of December, 1895, of sufficient capacity to keep employed 300 hands at least 10 months in each year and a further sum of \$200,000 for the purpose of adding to and enlarging the saw mills and industries, within one year thereafter, capable of employing at least 100 additional hands—it being distinctly understood that the erection of such mills and the establishment of such industry form part of the consideration of the agreement for the price of pulpwood." The mills were built as agreed.
4. In and by the Clergue agreement the Government agreed to give the right to cut sufficient spruce, poplar, tamarack and jack pine, and also hardwood to supply the mills for two years from their completion. This has been done.
5. In and by the Clergue agreement, it was further provided as follows:

"The said parties of the Second part or their assigns, and  
"such agent of the Department of Crown Lands, may select 50  
"square miles of unoccupied public land, upon which is to be found  
"the woods aforesaid, and the same may be delimited, and set out  
"—but in such way that merely patches of land, covered specially  
"by spruce, shall not be particularly selected. The said fifty miles  
"may be selected from territory running back upon either side of  
"one or more rivers, flowing into Lake Superior and west of Sault  
"Ste. Marie as convenient to the said mills as shall be consistent



"with the public interests, and having regard to where spruce may be found. But any territory which is covered with tracts of pine, available for commercial purposes, shall not be included in such tracts. Such river or rivers are to be selected by the said parties of the second part or their assigns, and such agent of the Department of Crown Lands. The said fifty miles shall be selected upon one river, if the land with suitable timber within a distance of three and one half miles on either side, can be found thereon. If not, the selection may be made along another river or rivers, regard always being had to the absence of pine upon or along any such stream. Where the parties agree, timber may be selected to some extent along the lake shore, running back the distance aforesaid, where the timber will permit, regard shall also in all cases be had to existing licenses or permits, or to land in respect of which licenses or permits have been promised by the Department."

".....  
 "The Government will permit the said parties of the second part and their assigns, to cut elsewhere than on the said 50 miles, at places to be agreed upon between the said parties of the second part or their assigns, on the one hand, and the Government, through their agent, on the other, upon payment of dues for the first eight years as above, and thereafter at such rates as may be fixed by the Lieutenant-Governor in Council, so many cords per annum as may be necessary to keep the mills running, less the amount which may be taken from the said 50 miles, which latter shall not be less in any one year than the one twenty-first part of the entire quantity required for the year."

6. The Government did not guarantee the quantity of wood to be cut upon the said 50 miles or other territory, or do more than permit the cutting; and the approval of the Department was to be had to the selection of the fifty miles and other territory before cutting should begin.

7. This agreement was provisional until approved by Resolution of the Legislative Assembly, which Resolution was later passed.

8. The next agreement is the "Sturgeon Falls Agreement" dated October 6, 1898, also provisional and approved in the same way.

9. The Company there in question undertook to operate a pulp mill they were purchasing at Sturgeon Falls and to extend the operations so that the mill should be worked to at least the capacity of 5000 tons of pulp per annum—and also to construct a paper mill at Sturgeon Falls, and equip it at an expense of at least \$1,000,000 and manufacture at least 30,000 tons of paper annually, employing at least 240 hands on the average—\$250,000 to be expended by April 6, 1900, \$500,000 by October 6, 1900, and balance by October 6, 1901.

10. The Government by the Sturgeon Falls Agreement agreed to grant for use in the business "the right for a period of 21 years from .....date..... to cut and remove spruce, poplar, tamarack, jack-pine and hardwoods six inches and upward in diameter to enable the Company to work the said pulp and paper mills and extensions thereof to their

full capacity." The wood was to be "from the lands of the Crown which  
"may be at any time unoccupied, unlocated or unsold along the  
"Sturgeon River in the District of Nipissing and along its exten-  
"sions or tributaries to a straight line drawn due east and west  
"across Lake Temagaming immediately south of Bear Island and  
"produced in a straight line easterly from the shore of the said lake  
"and the said line following on the west side of the said lake the  
"watershed of the said Sturgeon and its tributaries (the intention  
"being that no cutting shall take place on the west shore of Lake  
"Temagaming nor on streams flowing into Lake Temagaming north  
"of the intersection of the shore of said lake by the said straight  
"line) and along all tributaries of the said river and its extensions  
"thereof which fall into the said river and its extensions south of  
"the said lines for a distance extending back from the shores there-  
"of of five miles except as to islands in Lake Temagaming on which  
"no cutting is to take place and which are to be exempt from the  
"terms of this agreement, for the rates and prices hereinafter set  
"forth and provided and subject to such reasonable terms, condi-  
"tions and regulations as to the cutting, removing and driving of  
"the same as may from time to time be imposed by the Lieutenant-  
"Governor in Council and subject also as is hereinafter set forth  
"and contained."

It was further provided:—

"The Company may select and delimit or set out 75 square  
"miles of unoccupied and unlicensed public land from and in said  
"territory, upon which is to be found the wood aforesaid, but in  
"such a way that merely patches of land covered specially by spruce  
"shall not be particularly selected.

"The Government will from time to time, and as occasion  
"may require, grant permits to the Company to cut elsewhere with-  
"in the said territory than on the said 75 miles, at places to be  
"agreed upon between the Company and the Government, or the  
"agent appointed by the Government for that purpose, so many  
"cords of the said woods as may be necessary to keep the mills  
"running, less the amount which may be taken from the said 75  
"miles, which latter shall not be less in any one year than the one  
"twenty-first part of the entire quantity required for the year for  
"the use of the said mills."

11. It was further provided:—

"Nothing herein contained or to be done hereunder or by  
"virtue hereof shall entitle the company to a monopoly in the use of  
"the said river or its tributaries, but the same shall be and con-  
"tinue open for the use of the public in accordance with the law in  
"that behalf. But in view of the character of the industry to be  
"established, the investment of so large an amount of capital and  
"the probable enlargement of the industry in the near future, it is  
"understood that the Government will not grant, sell to or confer  
"upon any other person or persons, corporation or corporations, the  
"right to cut pulpwood within the territory hereinbefore referred to



“for the purpose of export before being manufactured into pulp, or  
“the right to cut pulpwood within or upon the said territory, the  
“granting of which rights would in the opinion of the Commissioner  
“of Crown Lands for the time being have the effect of so far lessen-  
“ing or diminishing the supply of pulpwood in the said territory  
“during the period covered by this agreement and which under the  
“agreement will be available for the making of pulp by the Com-  
“pany as to prejudicially interfere with the Company during that  
“period in obtaining all the pulpwood necessary for supplying the  
“said mills and any extensions thereof that may be made in the  
“meantime or extensions which may be under construction and  
“bona fide in process of completion, but nothing in this paragraph  
“or in this agreement shall prevent the sale or location to actual  
“settlers of any part of said lands in the usual manner.”

12. It was also provided that there should not “any cutting take place..... in or in the immediate proximity of territory covered with green merchantable pine available for lumbering purposes or which may be considered by the Government to be pine bearing lands”; but under certain circumstances the Company might cut in the vicinity of such pine-bearing lands “upon such terms and conditions as may from time to time be agreed upon between the Government and the Company, or if they cannot come to an agreement, then upon such terms, conditions and regulations, as may from time to time be made or imposed by the Lieutenant-Governor in Council or by the Commissioner of Crown Lands for  
“the purpose of affording ample protection to the standing pine.”

13. The next contract to be considered, which for convenience may be called the “Espanola Contract”, is dated September 21, 1899—also provisional and approved in the same way.

14. Under this contract, the Company was to establish mills at a point now called Espanola—a pulp and paper mill with an annual output of at least 20,000 tons, and employing at least 250 men; and an expenditure of \$500,000 was to be made.

15. It was further provided as follows:—

“6. In consideration of the said expenditure and of the con-  
“tracts and engagements entered into on the part of the Company,  
“the Government will grant to the Company for use in their said  
“business, the right for a period of twenty-one years from the date  
“hereof to cut and remove spruce, poplar or whitewood and banksian  
“or jackpine six inches and upwards in diameter to enable the com-  
“pany to work the said pulp and paper mills and any extension  
“thereof to their full capacity from the time when the Company  
“commences cutting under this contract from those portions of the  
“lands of the Crown on which the said woods or any of them may be  
“found and which may be at any time unoccupied, unlocated or un-  
“sold, along the Spanish, Vermillion and Onaping Rivers, in the dis-  
“trict of Algoma, and along the extensions and tributaries of the  
“said rivers other than the Sauble branch of the Spanish River, for



"a distance extending back five miles from the shores thereof respectively, for the rates and prices hereinafter set forth and provided and subject to such reasonable terms, conditions and regulations as to the cutting, removing and driving of the same as may from time to time be imposed by the Lieutenant-Governor in Council, and subject also as is hereinafter set forth and contained.'

"7. The Company may select and delimit or set out fifty square miles of unoccupied and unlicensed public land from the said territory upon which is to be found the woods aforesaid, but in such a way that merely patches of land covered specially by spruce shall not be particularly selected.

"8. The Government will from time to time as occasion may require, grant permits to the Company to cut elsewhere within the said territory than on the said fifty miles at places to be agreed upon..... so many cords of the said woods as may be necessary to keep the mills running, less the amount which may be taken from the said fifty miles, which latter shall not be less in any one year than the one-twenty-first part of the entire quantity required for the year for the use of the said mills....."

16. There was in this Contract, a clause, the provisions of which are almost identical with those set out in paragraph 11 above.

17. The next agreement was dated December 15, 1901, by which the Company undertook further expenditures and the Government waived previous breaches of the agreement of October 6, 1898. It does not affect the rights we are to consider; it was approved by Resolution of the Legislature.

18. The next agreement that of May 7, 1903, does not affect the rights we are to consider; it was approved by Resolution of the Legislature.

19. The next agreement to be considered is dated December 1, 1904. It extends for 21 years from the date thereof the right of the Company to cut and remove woods as provided in the Espanola Agreement of September 21, 1899, above mentioned.

20. Then follows the agreement dated October 1, 1909, extending for four years the time for the completion of the paper mills provided for in the Espanola Agreement of September 21, 1899, and until October 1, 1930, the right to cut and remove wood as provided for in the Espanola Agreement of September 21, 1899, and the agreement itself of October 1, 1909.

21. This agreement gave further rights to the Company—the right until October 1, 1930, to cut and remove jackpine and tamarack not less than 9 inches in diameter, two feet from the ground, for the purpose of using the same other than in and for the manufacture of pulp and paper, and to manufacture the same as the Company might desire, paying \$2.50 per thousand feet for it. Also for the same time to cut and remove railway ties paying 5 cents per tie.

22. The whole scheme of these contracts is that 50 or 75 square miles were to be selected by the Company and the Department, within

which the Company was to have exclusive cutting rights. These 50 or 75 square miles were not necessarily to be a compact block, but might be selected along the sides of one or more rivers.

In addition, "places" were to be agreed upon by the Company and the Department which would furnish the Company wood sufficient to keep the mills running.

### SAULT STE. MARIE CONTRACTS.

23. The Clergue Contract, November 21, 1894.

The Company is to cut at least one-twenty-first of the entire quantity required for the year on the 50 square miles to be set apart. No other territory was in the Contract set apart for the Company; but other places were to be agreed upon, on which the balance was to be cut, and the Government undertook to grant the right to cut these amounts for two years from the time of the completion and starting of the mills which were to be completed December 31, 1895, and December 31, 1896. Consequently these obligations of the Government come to an end December 31, 1898. It was, however, contemplated that the operations should continue for a longer time as the price was fixed for eight years and was thereafter to be fixed by Order in Council.

24. Under this contract, the Companies successively entitled to the benefits of it were permitted from time to time to cut sufficient wood for their mills. The area of 50 square miles was not definitely delimited at any time, nor was any other specific area until 1917. The question as to delimitation was raised in 1916, when the Department was proposing to sell the Pic River limit. The Company claimed that such a sale would be a violation of its rights under the contract and applied to have set aside for its exclusive use all territory on either side of all rivers flowing into Lake Superior west of Sault Ste. Marie. The Company claimed that the contract gave it the exclusive right to cut on all this very large territory, a contention which, we think, never had any foundation in law, but is wholly untenable. The area to be fixed of 50 square miles is the only territory which the Province agrees shall be on such rivers; the additional cutting rights being explicitly stated as "at places to be agreed upon between the said parties."

25. The application for the exclusive use of this territory is stated to have been to some extent occasioned by the fear that other pulp companies might come in and obtain the right to cut in that district.

26. The result of this application was that an Order-in-Council was passed, February 6th, 1917, on the recommendation of the Minister, whereby there was set apart for the exclusive right of the Company to cut a net area of about 7184 square miles with a coast line of over 200 miles on Lake Superior.

27. The Order in Council did not impose any further condition or require any further consideration for the reserve now for the first time made, and no contract followed the Order-in-Council. The capacity of the mill had been increased before the Order-in-Council was passed, but there



was no provision in the Order-in-Council for any further increase by the Company. The Government was not bound under the original contract to supply wood for any extension of the mills beyond what the Company was to construct on or before December 31, 1898.

28. There is nothing in the Statute authorizing such setting apart or reserve; what is authorized by R.S.O. (1914) c. 29, sec. 6 (2) is a grant by the Minister with the approval of the Lieutenant-Governor in Council of the right to cut pulpwood "for such periods and for such consideration and subject to such conditions, etc., as the Minister may deem proper."

29. It is for the Government in the exercise of its discretion to decide how far, if at all, it will in justice and equity and with due consideration for the public interest, continue the "setting apart" made by the said Order-in-Council.

### STURGEON FALLS CONTRACT.

30. Under the Sturgeon Falls Agreement, of October 6, 1898, the Company is to cut at least one-twenty-first of the entire quantity required for the year on the 75 square miles selected by it; the balance may be cut on other places to be agreed upon within the territory defined in the contract; and the Government undertakes to grant the right to cut these amounts for twenty-one years. Consequently the obligations of the Government under this contract came to an end, October 6, 1919.

31. By an agreement dated June 29, 1912, The Ontario Pulp and Paper Company Limited, who had become entitled to the advantage of the said Contract of October 6, 1898, was granted the right to cut until April 1, 1932, obtaining at the same time the right to cut balsam and cedar, thereby having the right to cut spruce at 40 cents a cord and jackpine, cedar, balsam, poplar and tamarack at 20 cents a cord, but surrendering the right to cut hardwood.

That Company also acquired the right to cut all soft woods except spruce and balsam for use other than for pulp and paper, paying \$2.50 per thousand for all jackpine and tamarack used for such other purposes; also to take railway ties at 5 cents per tie.

32. About 1916, the present Company applied for area; and there was a conference between the Deputy Minister and certain other officers of the Department, and representatives of the Company, resulting in an informal agreement or understanding that the Company should have the exclusive right of cutting on a large area, over 3000 square miles. The parties, it is said, believed that they were giving "a reasonable interpretation of the agreement"; but there is in fact no provision in the original agreement for an exclusive right of cutting except on the 75 square miles mentioned.

There was no formal definition by the Minister of the area, no written agreement, no grant, no Order-in-Council, and no Departmental record except on a map. It is impossible on the evidence before us to say what the informal agreement actually was.



33. This arrangement having been arrived at under a mistake as to the legal position, it is for the Government in its discretion to decide how far, if at all, it will be bound by it. If a reserve is to be maintained the limits should be made perfectly definite.

### ESPANOLA CONTRACTS

34. Under the Espanola Agreement of September 21, 1899, the Company is to cut at least one-twenty-first of the entire quantity required for the year on the 50 square miles to be selected by it. The balance may be cut on other places to be agreed upon within the territory defined by the contract, and the Government undertakes to grant the right to cut these amounts for twenty-one years. Consequently under this contract the obligations of the Government came to an end September 21, 1920; but this time was extended by the contract of 1904 to December 1, 1925, while the contract of October 1, 1909, extends the time to October 1, 1930, and gives the right to cut jackpine and tamarack of a certain size for purposes other than the manufacture of pulp or paper; and also the right to cut railway ties at 5 cents per tie.

35. Following up some oral discussions in 1918 and the earlier part of 1919, an application was made in writing to the Minister on September 19, 1919, for the exclusive right to cut all timber (other than red or white pine) on all the lands not sold, etc., within an area of 5800 square miles described in the application and indicated on a map prepared in the Department; the area thus sought being 4900 square miles.

36. The Company was in negotiation for borrowing \$3,500,000 from Messrs. Peabody, Houghteling Co., a financial institution in Chicago, and desired definiteness as to the supply of pulpwood. It "was anxious to have matters brought to a head because of pending financial matters." The Company claimed that upon the area upon which it had already the right to cut wood, there was not more than 5 years' supply for the Espanola Mills.

37. The Minister wrote to the Company, September 25, 1919, a letter in which he said: "I have reached the conclusion that it is in the public interest that you should be assured of an additional supply of wood; and "I have indicated to the Deputy Minister that the area discussed at our "recent interview, and outlined on the map at that time shall, in the mean- "time, be held in reserve until we have a full opportunity of delimiting "exactly the territory that will be set aside for your purposes and we shall "have had further time to discuss the question of price, and other details "in connection with the transaction."

A copy of this letter was put and remained on the files of the Department.

38. On October 2, 1919, George H. Mead, the President of the Company, wrote from Dayton, Ohio, expressing "appreciation of the decision of the Government to fulfil our request for additional wood lands."

39. Subsequently on October 16, 1919, Mr. Mead wrote to the Minister enclosing the original and also a notarial copy of a letter to Mead of October 9, from Alexander Smith, the President of Peabody Houghteling & Co.,

"expressing his satisfaction regarding the recent timber grant to the Spanish Company, and also his willingness to immediately proceed with the purchase of the notes....." amounting to \$3,500,000. These letters were received by the Minister and apparently put upon his private files. The Minister replied to Mead, October 30, 1919, returning the original and saying that he retained the copy for the official files. He also stated that since the election the matter had passed out of his hands—there was no correction of the statement that the transaction was a "grant" to the Company.

40. On November 20, 1920, Mr. Gibson, Solicitor for the Company, wrote to the Department, urging "the considerations which it is submitted entitle the Company to a grant of these additional timber areas"; and, "as showing that the money obtained from Messrs. Peabody, Houghteling & Co., was got on the strength of the grant of the additional lands," he attached a copy of the letter from Smith to Mead of October 9, 1919, which he said had been sent to the former Minister.

41. When the Departmental files were shown to Counsel for the Crown the letter of October 16, 1919, from Mead to the former Minister, that of Smith to Mead and the Minister's letter of October 30, were not on these files.

42. On January 15, 1921, Counsel for the Crown wrote the Deputy Minister; and in consequence, the Deputy Minister had a search made, and it was reported to him by Allen Ferguson acting for the Chief Clerk of the Records Branch, that these letters had been found in a basket on his desk, and had been brought to his attention by Frederick Samuels, a clerk in the same Branch.

Samuels, on being examined, swore that he had received them in the latter part of August, 1920, from Mr. C. C. Hele who said they were for the official files; Samuels further swore that he drew Allen Ferguson's attention to them on his return a few days later.

Allen Ferguson swore that he did not say anything about the letters to anyone until the Deputy Minister's enquiry, and that they lay in his basket or on his desk from August, 1920, until January, 1921.

Mr. C. C. Hele, Private Secretary to the former Minister, says that the letters were not on the public file, that they were taken away by him inadvertently November 13, 1919, to his home at Mimico with other papers; that he happened, during the summer of 1920 to "run across" the file in the Department during the early part of this investigation; that he found these letters were missing, and started to search for them, that he found them in August, 1920, and handed them to Samuels, telling him to give them to Allen Ferguson.

43. The transaction being stated in a letter sent to the Department by the President of the Company and also stated by the Company's solicitor as a "grant," it was deemed proper that it should be fully investigated; it is now apparent that there was no "grant," but simply a statement by the former Minister that he had indicated to the Deputy that the area sought would be "held in reserve."

44. There being no grant and no Order-in-Council, there is nothing binding upon the Government; the Government is at liberty to deal with the whole mater as appears best in their judgment for the interests of the Province and in accordance with justice and equity.

45. In the consideration of the question, it may be thought relevant to bear in mind, that the Company in the financial statement by its President of October 1, 1919, claimed to control "under lease from the Government."

Sault Ste. Marie .....	6,801,280	acres
Sturgeon Falls, .....	1,975,320	"
Espanola .....	2,742,400	"

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11,520,00 acres

or 18,000 square miles.

46. Certain of the dealings of the Department with the Company, Fire Ranging Charges and Interest, are mentioned in our General Report, and we do not think it necessary to refer to them here.

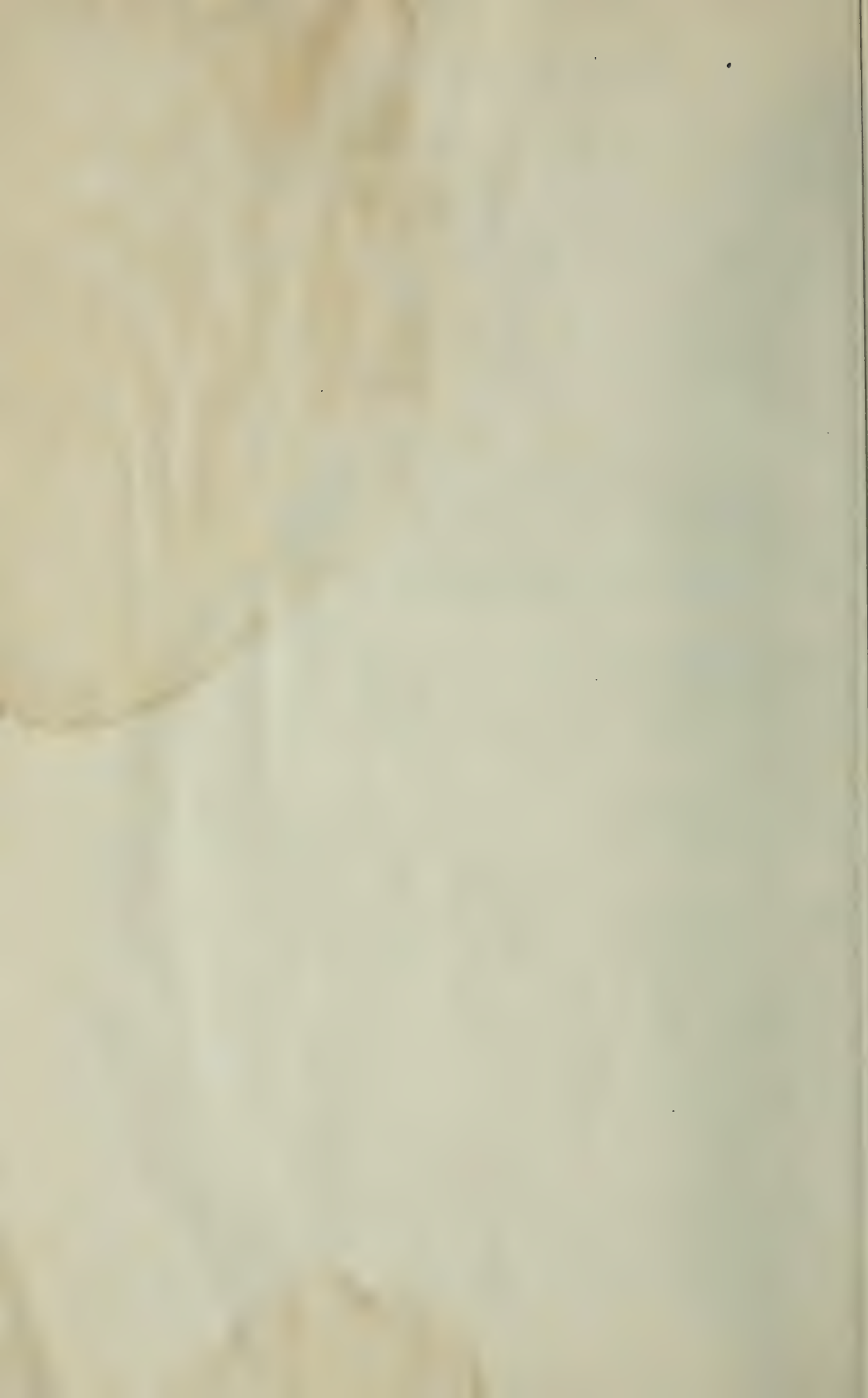
47. We transmit herewith the evidence respecting the above matters.  
All of which is respectfully submitted.

"William Renwick Riddell"

"Francis Robert Latchford."

Toronto, June 26, 1922.













~~(F) B 16 1983~~











